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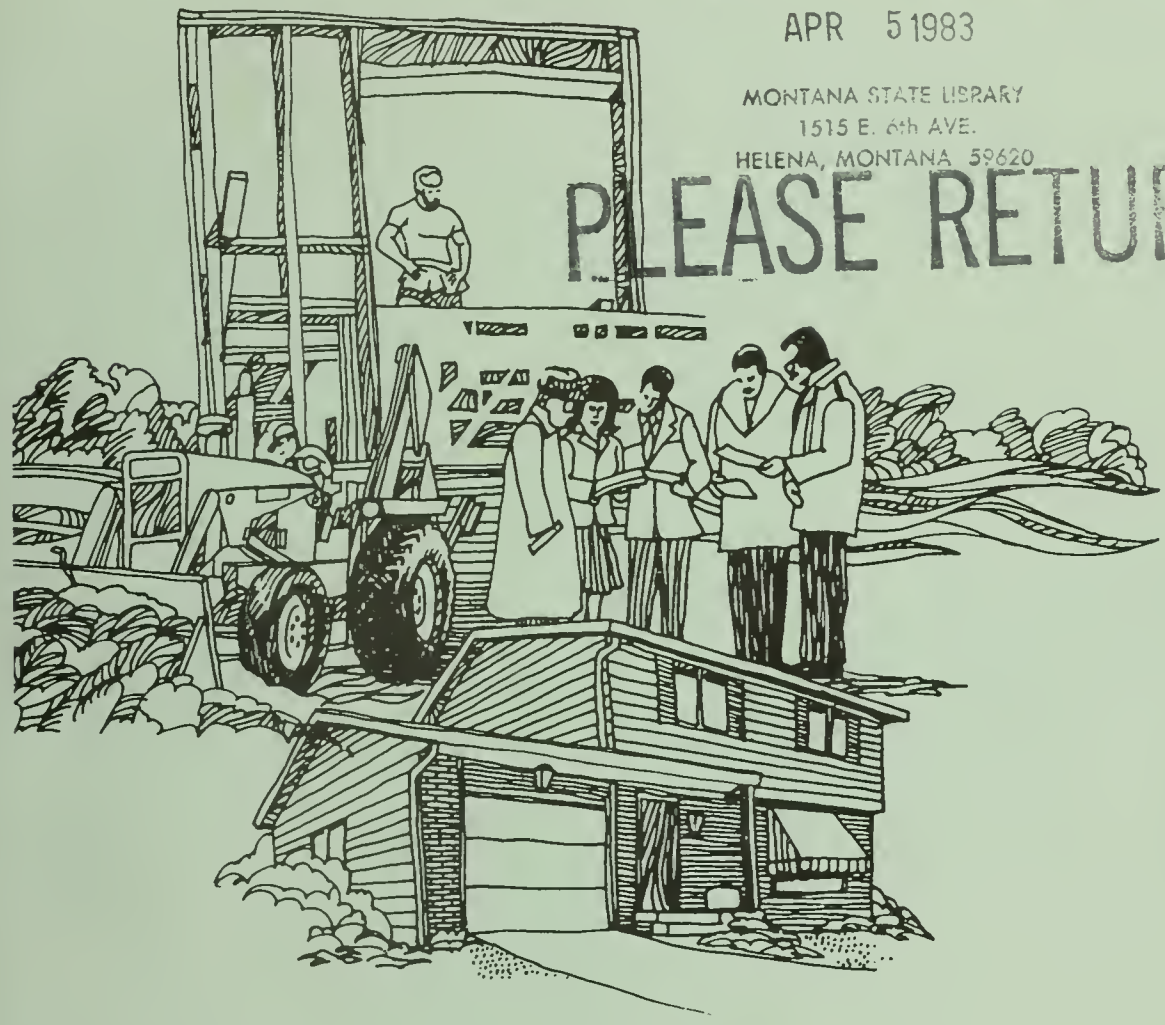

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May, 1982

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MONTANA MODEL SUBDIVISION REGULATIONS

prepared by

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Economic and Community Development Division

Helena, Montana

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Director

May 1982

JUL 18 1984

DEPARTMENT OF COMMERCE

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May 24, 1982

Dear Friend:

The Montana Model Subdivision Regulations was prepared to serve as a guide to local planning boards and governing bodies when updating their subdivision regulations. The Model is a companion volume to the recently published Montana's Subdivision and Surveying Laws and Regulations.

The Model incorporates the most recent revisions to the Montana Subdivision and Platting Act. While many of the guidelines offered by the Model are based on statutory requirements, there are many opportunities for local governments to tailor the procedures and design standards to fit their particular concerns.

The new Model is the result of the first comprehensive review and revision of the Model Subdivision Regulations since they were originally prepared in 1974. The revised Model involved participation from local planners throughout the State. I would like to extend my appreciation to all of you who helped in this effort, and hope that the new document will be helpful to you.

Sincerely,

GARY BUCHANAN
DIRECTOR

GB/ke

INTRODUCTION

The Montana Model Subdivision Regulations are intended to serve as an example for local governments to use in preparing or revising their own regulations. We expect and encourage local governments to adapt the Model to match local concerns and needs. The standards that are reasonable for Mineral County in western Montana may be completely inappropriate for Richland County in eastern Montana.

A 1981 amendment to the Subdivision and Platting Act sets out a framework of minimum requirements for local subdivision regulations which mandate that local governments:

(1) require the subdivider to submit to the governing body an environmental assessment where required by the Act;
(2) establish procedures consistent with the law for the submission and review of subdivision plats;
(3) prescribe the form and contents of preliminary plats and the documents to accompany final plats;
(4) provide for the identification of areas which, because of natural or man-caused hazards, are unsuitable for subdivision development and prohibit subdivisions in these areas unless the hazards can be eliminated or overcome by approved construction techniques;
(5) prohibit subdivisions for building purposes in areas located within the floodway of a flood of 100-year frequency as defined by the Floodway Management Act or determined to be subject to flooding by the governing body;
(6) prescribe standards for:
    (a) the design and arrangement of lots, streets, and roads;
    (b) grading and drainage;
    (c) water supply and sewage and solid waste disposal which, at a minimum, meet the regulations adopted by the Department of Health and Environmental Sciences under the Sanitation in Subdivisions Act; and
    (d) the location and installation of utilities;
(7) provide procedures for the administration of the park and open-space requirements of the Act; and
(8) provide for the review of preliminary plats by affected public utilities and those agencies of local, state, and federal government having a substantial interest in a proposed subdivision; such utility or agency review may not delay the governing body's action on a plat beyond the time limits specified in the law, and the failure of any agency to complete a review of the plat may not be a basis for rejection of a plat by the governing body.

While much of the procedural portion of the Model is based on statutory timeframes and requirements, there are still many opportunities to adjust those provisions to local needs. The design standards portion of the Model offers even greater opportunities to tailor the requirements to fit particular concerns and problems at the local level.

The 1977 Legislature mandated the preparation of a joint application form which could be used by subdividers for review by both local governments under the Subdivision and Platting Act and by the Montana Department of Health and Environmental Sciences under the Sanitation in Subdivisions Act. The environmental assessment portion of the Model has been revised to reflect the requirements of the joint application form. We hope that greater use of the joint form will result in better coordination between local and state reviews and the elimination of unnecessary paper work for the subdivider. The joint application form is included as Appendix A of this document. The list of appendices includes the following items:

- Joint Application Form,
- Preliminary Plat Form, Contents, and Supplements,
- Standards for Flood Hazard Evalations,
- Sample Forms and Certificates,
- Subdivision Improvements Guarantee Procedures,
- Uniform Standards for Monumentation, and
- Definitions

The Model will be most useful to jurisdictions with established planning boards. Communities which have not formed a planning board but are interested in doing so may contact the Department of Commerce, Economic and Community Development Division, for assistance.

In addition to this Model, the Department of Commerce recently published Montana's Subdivision and Surveying Laws and Regulations which includes the texts of:

- the Montana Subdivision and Platting Act,
- the Montana Uniform Surveying Standards,
- the Sanitation in Subdivisions Act,
- the Montana Department of Health and Environmental Sciences Subdivision Standards, and
- the Corner Recordation Act.

Rather than undertaking a comprehensive revision of local subdivision regulations, some communities may wish to make the minimum revisions necessary for conformance with the 1981 amendments to the Montana Subdivision and Platting Act. The Department has prepared guidelines for modification of local subdivision regulations based upon the January 1980 Model. These guidelines are available upon request.

If you have any questions about the Model Subdivision Regulations or the Subdivision and Platting Act, or would like to order copies of the new Model, Montana's Subdivision and Surveying Laws and Regulations, or guidelines for modification of the January 1980 Model, please contact the Department of Commerce at 1424 Ninth Avenue, Helena, Montana 59620, phone (406) 449-3757.

TABLE OF CONTENTS

		Page
I.	GENERAL PROVISIONS	
	A. Title	1
	B. Authority	1
	C. Purpose	1
	D. Jurisdiction	2
	E. Severability	2
II.	GENERAL PROCEDURES	
	A. Subdivision Review and Approval Procedures	
	1. Construction Timing	3
	2. Transfers of Title	3
	3. Pre-application Procedures	4
	4. Permission to Enter	4
	B. Preliminary Plats	
	1. Preliminary Plat Submission and Distribution	4
	2. Public Hearing	6
	3. Preliminary Plat Approval	7
	4. Preliminary Plat Approval Period	7
	5. Exemptions from Environmental Assessment	8
	C. Final Plats	
	1. Final Plat Submission	10
	2. Final Plat Contents	10
	3. Final Plat Review	10
	4. Restrictive Covenants -- Approval and Enforcement by Governing Body	11
	5. Guarantee of Public Improvements	11
	6. Final Plat Approval	12
	7. Final Plat Filing	12
	D. Minor Subdivisons	
	1. Minor Subdivision Plat Submission	14
	2. Minor Subdivision Plat Form and Contents	15
	3. Exemptions from Environmental Assessment	15
	4. Public Hearing	15
	5. Minor Subdivision Plat Approval	16
	6. Minor Subdivision Plat Approval Period	16
	7. Minor Subdivision Final Plat	18
	E. Correcting or Amending Filed Final Plats	
	1. Correcting Filed Final Plats	19
	2. Amending Filed Final Plats	19
III.	GENERAL DESIGN AND IMPROVEMENT STANDARDS	
	A. General Standards	
	1. Conformance	21
	2. Natural Environment	21
	3. Lands Unsuitable for Subdivision	21
	4. Floodplain Provisions	21
	5. Improvement Design	22
	6. Lots	22

		Page
7.	Blocks	23
8.	Streets and Roads	
	a. Design	23
	b. Improvements	24
9.	Drainage Facilities	31
10.	Water Supply Systems	31
11.	Sewage Treatment Systems	32
12.	Solid Waste	32
13.	Utilities	32
14.	Easements	33
15.	Park Land	33
16.	Fire Protection	35
B.	Special Standards for Subdivisions Proposed in Areas of High Fire Hazard	35
IV.	PLANNED UNIT DEVELOPMENTS	
A.	Intent	37
B.	Designation as a P.U.D.	37
C.	Procedures	38
D.	Standards	38
V.	SUBDIVISIONS CREATED BY RENT OR LEASE	
A.	Procedures	40
B.	General Standards for Subdivisions Created by Rent or Lease	40
C.	Streets	41
D.	Mobile Home Park Standards	42
E.	Recreational Vehicle Park Standards	44
VI.	CONDOMINIUMS	
A.	Procedures	44
B.	Standards	44
VII.	ADMINISTRATIVE PROVISIONS	
A.	Fee Schedule	45
B.	Variances	46
C.	Amendment of Regulations	47
D.	Administration	47

List of Tables

		Page
1	Preliminary Plat Review Process -- Major Subdivisions	9
2	Final Plat Review Process -- Major Subdivisions	13
3	Minor Subdivision Plat Review Process	17
4	Final Plat Review Process - Minor Subdivisions	18
5	Road Design Standards for Low Density Subdivisions	26
6	Minimum Roadway Widths for Major Collectors	27
7	Minimum Roadway Widths for Minor Collectors and Local Roads	28
8	Roadway Widths for Bridges	29
9	Street Design Standards for High Density Subdivisions	30

List of Appendices

A	Joint Application Form	48
B	Preliminary Plat Form, Contents, and Supplements	59
C	Standards for Flood Hazard Evaluations	62
D	Sample Forms and Certificates	64
E	Subdivision Improvements Guarantee Procedures	77
F	Uniform Standards for Monumentation	82
G	Definitions	85

I. GENERAL PROVISIONS

A. Title

These regulations shall be known and may be cited as "The Subdivision Regulations of (City or County);" hereinafter referred to as "these regulations."

B. Authority

Authorization for these regulations is contained in the Montana Subdivision and Platting Act (Title 76, Chapter 3, MCA).

C. Purpose

The purposes of these regulations are to promote the public health, safety, and general welfare and to provide for:

1. The orderly development of the jurisdictional area.
2. The coordination of roads within subdivided land with other roads, both existing and planned.
3. The dedication of land for roadways and for public utility easements.
4. The improvement of roads.
5. The provision of adequate open spaces for travel, light, air and recreation.
6. The provision of adequate transportation, water, drainage, and sanitary facilities.
7. The avoidance or minimization of congestion.
8. The avoidance of subdivision which would involve unnecessary environmental degradation.
9. The avoidance of danger or injury by reason of natural hazard or the lack of water, drainage, access, transportation or other public services.
10. The avoidance of excessive expenditure of public funds for the supply of public services.
11. The manner and form of making and filing of any plat for subdivided lands.
12. The administration of these regulations by defining the powers and duties of approving authorities including procedures for the review and approval of all plats of subdivisions covered by these provisions.

D. Jurisdiction

These regulations govern the subdivision of land within the jurisdictional area of the governing body of (City or County).

If a proposed subdivision lies within one mile of a third class city or town or within two miles of a second class city or within three miles of a first class city, the county governing body must submit the preliminary plat to the city or town governing body or its designated agent for review and comment. If a proposed subdivision lies partly within an incorporated city or town, the preliminary plat must be submitted to and approved by both the city or town and the county governing bodies.

When a proposed subdivision is also proposed to be annexed to a municipality, the governing body of the municipality shall coordinate the subdivision review and annexation procedures to minimize duplication of hearings, reports, and other requirements whenever possible.

These regulations supplement all other regulations, and where they are at variance with other laws, regulations, ordinances, or resolutions, the more restrictive requirements shall apply.

E. Severability

Where any word, phrase, clause, sentence, paragraph, section, or other part of these regulations is held invalid by a court of competent jurisdiction, such judgment shall affect only that part held invalid.

II. GENERAL PROCEDURES

A. Subdivision Review and Approval Procedures

1. Construction Timing

The subdivider shall not proceed with any construction work on the proposed subdivision, including grading and excavation relating to public improvements, until he or she obtains from the governing body preliminary approval of the proposed subdivision plat.

2. Transfers of Title

Except as noted below, a final subdivision plat must be filed for record with the county clerk and recorder before title to the subdivided land can be sold or transferred in any manner. After the preliminary plat of a subdivision has been approved or conditionally approved, the subdivider may enter into contracts to sell lots in the proposed subdivision if all of the following conditions are met:

a. That under the terms of the contracts the purchasers of lots in the proposed subdivision make any payments to an escrow agent which must be a bank or savings and loan association chartered to do business in the State of Montana.

b. That under the terms of the contracts and the escrow agreement the payments made by purchasers of lots in the proposed subdivision may not be distributed by the escrow agent to the subdivider until the final plat of the subdivision is filed with the county clerk and recorder.

c. That the contracts and the escrow agreement provide that if the final plat of the proposed subdivision is not filed with the county clerk and recorder within two years of the preliminary plat approval, the escrow agent shall immediately refund to each purchaser any payments made under the contract, and

d. That the contracts contain the following language conspicuously set out therein: "The real property which is the subject hereof has not been finally platted, and until a final plat identifying the property has been filed with the county clerk and recorder, title to the property cannot be transferred in any manner."

e. A copy of the contracts and escrow agreement described above shall be submitted to the planning board (or planning director).

3. Pre-application Procedures

The subdivider should meet with the planning board (or planning director) prior to submitting the required preliminary plat. The purpose of this meeting is to discuss these regulations and standards, to familiarize the subdivider with the applicable goals and objectives of (City or County Comprehensive Plan or other adopted documents), and to discuss the proposed subdivision as it relates to these matters. The planning board (or planning director) shall notify the subdivider of the option of concurrent review of the subdivision by the local government and the Montana Department of Health and Environmental Sciences. The subdivider should provide a sketch plan of the proposed subdivision for review and discussion. The sketch plan should be legibly drawn showing in simple form the layout of proposed features in relation to existing site conditions. The sketch plan may be a freehand sketch made directly on a print of a topographic map. Scale dimensions should be noted. The sketch plan should include pertinent information such as: approximate tract and lot boundaries, location of easements, utilities, rights-of-way, parks and open spaces, and a description of general terrain, natural features, existing structures and improvements, and proposed public improvements.

4. Permission to Enter

The governing body or its designated agent(s) or agency may conduct such investigations, examinations, and site evaluations as they deem necessary to verify information supplied as a requirement of these regulations. The submission of pre-application materials or a preliminary plat for review shall constitute a grant of permission to enter the subject property.

B. Preliminary Plats

Table 1 on page 9 summarizes the preliminary plat review process for major subdivisions, as explained in the following sections II.B.1-5:

1. Preliminary Plat Submission and Distribution

The subdivider shall submit for review and approval a preliminary plat of the proposed subdivision which conforms to the requirements of these regulations, unless exempted under Section II.D., Minor Subdivisions. The preliminary plat shall be prepared in form and with contents and supplements as required by Appendix B, and conform to the Design and Improvement Standards set forth in Section III.

The subdivider shall submit the following application information to the planning board (or planning director):

a. the Montana Department of Health and Environmental Sciences/ Local Government Joint Application Form (see Appendix A);

b. the required review fee as stated in the Fee Schedule on page 45 ; and

c. ___*___ copies of the preliminary plat and plat supplements.

If, on the Joint Application Form the subdivider requests concurrent review by the governing body and the Montana Department of Health and Environmental Sciences, the planning board shall forward a copy of the Joint Form to the Health Department within ten days of accepting the application and determining that it is complete.

Review by public agencies or utilities shall not delay the governing body's action on the plat beyond the 60 day limit. Any review comments shall be made available to the subdivider and to the general public upon request.

Note: Jurisdictions which do not have a planning director usually require slightly different procedures and timing at this stage of the review process than areas which have a planning director. Therefore, two options are included which both comply with the 60 day limit.

(Option I -- for jurisdictions with a planning board but no planning director:)

The application materials and fee shall be submitted to a regular meeting of the planning board. The planning board will review the information to determine whether or not the application is complete. If the application is complete, the planning board will publish a notice of public hearing and review the application at the next regular meeting, in accordance with Sections II.B.2-3. The 60 day review period shall commence on the date of planning board acceptance of the application.

Incomplete applications along with the review fee shall be returned to the subdivider with a statement describing the deficiencies. The subdivider may correct the deficiencies and resubmit the application at the next meeting of the planning board.

(Option II -- for jurisdictions with a planning director and a planning board:)

The application materials and fee shall be submitted to the planning director 20 days prior to a regular meeting of the planning board. The planning director will review the information to determine whether or not the application is complete. If the application is complete, the planning board will authorize the planning director to publish a notice of public hearing and review the application at the next regular meeting, in accordance with Sections II. B. 2-3. The 60 day review period shall commence on the date of planning board acceptance of the application and authorization to publish the notice of public hearing.

* The governing body may require and distribute as many copies of the preliminary plat and supplements as it deems necessary for its review and for the review of local agencies and utilities having a substantial interest in proposed subdivisions. Such agencies may include school, fire, utility, and conservation districts, local office of the United States Forest Service, Bureau of Land Management, or Soil Conservation Service, and other appropriate bodies.

If the planning director determines that the application is incomplete, the subdivider shall be notified of the deficiencies at least five days prior to the planning board meeting. The subdivider may then correct the deficiencies and present the application to the planning board. If the application is complete, the procedure specified above shall be followed.

2. Public Hearing

After accepting a preliminary plat application as complete, the planning board shall hold a public hearing on the preliminary plat. When a proposed subdivision is also proposed to be annexed to a municipality, the governing body of the municipality shall hold joint hearings on the preliminary plat and annexation whenever possible. Notice of the time and date of the hearing shall be given by publication in a newspaper of general circulation in the county not less than 15 days prior to the date of the hearing. The subdivider and each property owner of record immediately adjoining the land included in the plat shall be notified of the hearing by registered mail not less than 15 days prior to the date of the hearing. The planning board may require the posting of the notice of the hearing at conspicuous places on the boundaries of the proposed subdivision.

The planning board shall:

a. consider the following:
   1) relevant evidence relating to the public health, safety, and welfare;
   2) the environmental assessment (Joint Application Form);
   3) any officially adopted comprehensive plan for the area involved; and
   4) public interest criteria as stated in Section II.B.3. of these regulations; and

b. advise the governing body as to whether the preliminary plat conforms to the provisions of:
   1) the Montana Subdivision and Platting Act;
   2) these regulations;
   3) applicable zoning regulations and/or any officially adopted comprehensive plan for the area involved; and
   4) other regulations in effect in the area of the proposed subdivision; and

c. within ten days of the public hearing, submit in writing the following to the governing body:
   1) its findings regarding the four items under Section b, above;
   2) recommended findings of fact which weigh the criteria for public interest; and
   3) a recommendation for approval, conditional approval, or disapproval of the plat.

3. Preliminary Plat Approval

The governing body shall approve, conditionally approve, or disapprove the preliminary plat with 60 days of its presentation to the planning board and determination of completeness, unless the subdivider consents to an extension of the review period. If the governing body disapproves or conditionally approves the preliminary plat, it shall forward one copy of the plat to the subdivider accompanied by a letter over the appropriate signature stating the reason for disapproval or enumerating the conditions which must be met to assure approval of the final plat.

The basis for the governing body's decision to approve, conditionally approve, or disapprove a subdivision shall be whether the following demonstrate that development of the subdivision would be in the public interest:

a. the preliminary plat;
b. environmental assessment (Joint Application Form);
c. planning board recommendations; and
d. additional information.

The governing body shall disapprove any subdivision which it finds not to be in the public interest. To determine whether the proposed subdivision would be in the public interest the governing body shall issue written findings of fact which weigh the following criteria for public interest:

a. The basis of the need for the subdivision;
b. Expressed public opinion;
c. Effects on agriculture;
d. Effects on local services;
e. Effects on taxation;
f. Effects on the natural environment;
g. Effects on wildlife and wildlife habitat, and
h. Effects on the public health and safety.

The governing body may withdraw approval of a plat if it determines that information provided by the subdivider, and upon which such decision was based, is inaccurate.

4. Preliminary Plat Approval Period

Upon approving or conditionally approving a preliminary plat, the governing body shall provide the subdivider with a dated and signed statement of approval. This approval shall be in force for not more than one calendar year. At the end of this period the governing body may, at the request of the subdivider, extend its approval for no more than one calendar year, except that the governing body may extend its approval for a period of more than one year if that approval period is included as a specific condition of a written subdivision improve-

ments agreement between the governing body and the subdivider, provided for in Section II.C.4. of these regulations.

After the preliminary plat is approved, the governing body may not impose any additional conditions as a prerequisite to final plat approval, providing said approval is obtained within the original or extended approval period as provided above.

5. Exemptions From Environmental Assessment

The requirement for preparing an environmental assessment pursuant to Section 76-3-504(1), MCA, and explained in Appendix A shall be waived when:

a. 1) The proposed subdivision is totally within an area covered by a master plan adopted pursuant to Section 76-1-606, MCA;
   2) Municipal zoning regulations have been adopted pursuant to Sections 76-2-301 through 76-2-328, MCA; or county zoning with a comprehensive plan has been adopted pursuant to Sections 76-2-201 through 76-2-228, MCA; and
   3) A long-range development program of the public works projects has been adopted pursuant to Section 76-1-601 (4), MCA; or

b. The proposed subdivision is the first minor subdivision from a tract of record.

The requirement for preparing an environmental assessment may be waived by the Planning Board when:

1) The proposed subdivision is in an area covered by a master plan adopted pursuant to Sections 76-1-101 through 76-1-606, MCA and the proposed subdivision will be in compliance with the plan; or
2) The subdivision will contain fewer than ten parcels and less than 20 acres.

When such an exemption is granted, the planning board shall prepare and certify a written statement of the reasons for granting the exemption. A copy of this statement shall accompany the preliminary plat of the subdivision when it is submitted for review.

TABLE 1: Preliminary Plat Review Process -- Major Subdivisions

1. Initial contact with planning board or planning director: applicant obtains guidelines, forms, and regulations.

2. Applicant develops design.

3. Pre-application conference: applicant discusses proposal and sketch plan with planning board or planning director. Potential problem areas are identified and regulations are highlighted.

4. Preparation of formal application based on regulations and pre-application conference.

5. Submission of formal application:

   a. to a regular meeting of the planning board. If application is complete, notice of hearing is published for review of subdivision at next regular meeting.

      60 day review period starts when application is accepted; or

   b. to the planning director 20 days prior to a regular meeting of the planning board. If application is complete, planning board authorizes publication of notice of hearing for review of subdivision at next regular meeting.

      60 day review period starts when application is accepted.

6. 15 days prior to public hearing, notice of hearing published and registered letters mailed to adjacent property owners and subdividers.

7. Planning board meeting: public hearing conducted and subdivision reviewed.

8. Planning board recommendation for approval, conditional approval or disapproval of plat submitted in writing to the governing body and subdivider within ten days of public hearing.

9. Governing body action to approve, conditionally approve or disapprove plat must be completed within the 60 day time limit.

NOTE: Applicant may request an extension of the preliminary plat review process time limit at any stage.

C. Final Plats

Table 2 on page 13 summarizes the final plat review process for major subdivisions, as explained in the following Section II.C.1-7.

1. Final Plat Submission

The final plat must be submitted to the regular meeting of the planning board (or to the planning director) before the expiration of the preliminary plat approval period as explained in Section II.B.4., page 7 .

An application for final plat approval, (see form #1, Appendix D), together with the final plat, two blue-line copies of the final plat and the appropriate review fee shall be submitted to the planning board at its regular meeting (or to the planning director).

2. Final Plat Contents

The final plat submitted for approval shall conform to the preliminary plat as previously reviewed and approved by the governing body and shall incorporate all required modifications. The final plat shall comply with the Montana Uniform Standards for Final Subdivision Plats (Appendix F). The final plat may constitute only that portion of the approved preliminary plat the subdivider wishes to file, provided that such portion conforms to all requirements of these regulations and is approved by the governing body in writing.

3. Final Plat Review

The final plat will be reviewed, provided that all requirements for the form and content and its supplements are met, to assure that it conforms to the approved preliminary plat. Any significant change may require the holding of a public hearing for review.

The governing body may require that final subdivision plats be reviewed for errors and omissions in calculation or drafting by an examining land surveyor before recording with the clerk and recorder. When the survey data shown on the plat meet the conditions set forth by the Montana Subdivision and Platting Act and the Montana Uniform Standards for Monumentation and Final Subdivision Plats, the examining land surveyor shall so certify on the plat. No land surveyor having a financial or personal interest in a plat shall act as an examining land surveyor in regard to that plat.

The governing body may provide for the review of the abstract or certificate of title of the land in question by the county attorney where the land lies in an unincorporated area or by the city or town attorney when the land lies within the limits of a city or town.

4. Restrictive Covenants -- Approval and Enforcement by Governing Body

a. The governing body may require that every restrictive covenant shall contain the following language: This (These) covenant(s) may not be repealed or amended without the prior written consent of the (name of governing body).

b. The governing body may require that in addition to the language specified in paragraph 4a certain restrictive covenants contain the following language: "The (name of governing body) is a party to this restrictive covenant and may enforce the provisions hereof."

5. Guarantee of Public Improvements

As a condition of approval of the final plat, the subdivider shall have installed all required improvements or shall enter into a subdivision improvements agreement guaranteeing the construction installation, and/or maintenance of all such improvements. Alternative methods of guaranteeing public improvements and the procedures and requirements for securing the guarantees are provided in Appendix E.

If common property is to be deeded to a property owners' association, the covenants and restrictions which govern the association shall, at a minimum, provide for:

a) Formation of property owners' association before any property is sold;
b) Mandatory membership for each property buyer and any subsequent buyer;
c) Perpetual reservation of the common property;
d) The association's responsibility for liability insurance, local taxes, and the maintenance of recreational and other facilities;
e) Property owners paying their pro-rata share of the cost and that the assessment charged by the association can become a lien on the property;
f) The association adjusting assessments to meet changing needs;
g) Means of enforcement and of receiving and processing complaints.
h) Required permission of the governing body before the association can be dissolved or the restrictions can be modified; and
i) A regular maintenance program for roads, parks, buildings, drainage facilities and other mutually controlled facilities.

6. Final Plat Approval

The governing body shall approve or disapprove the final plat within * days of its presentation to the planning board (or planning director). The planning board (or planning director) shall examine the final subdivision plat and shall recommend approval only when it conforms to the conditions of approval set forth on the preliminary plat and to the terms of the Montana Subdivision and Platting Act and these regulations.

The governing body shall examine every final subdivision plat and shall approve it when and only when it conforms to the conditions of approval set forth for the preliminary plat and to the terms of the Montana Subdivision and Platting Act and these regulations.

If the final plat is disapproved, the reasons for disapproval shall be stated in the records of the governing body and a copy forwarded to the applicant. The governing body shall return the final plat to the subdivider within ten days of the action. The applicant may then make the necessary corrections and resubmit the final plat for approval. Approval shall be certified by the governing body on the face of the final plat, and the county treasurer shall certify that all taxes have been paid on the land proposed for subdivision. The acceptance of land dedications shall be made by specific resolution of the governing body and noted on the final plat.

The governing body may withdraw approval of a plat if it determines that such information provided by the subdivider, and upon which such decision was made, is inaccurate.

7. Final Plat Filing

Within ten days of the approval of the final plat or minor subdivision plat, the governing body (or the subdivider)** shall submit for filing the approved final plat and supplementary documents with the county clerk and recorder. After approval, the plat shall not be altered in any manner, either before or after filing. The county clerk and recorder shall refuse to accept any plat for record that fails to have approval in proper form or has been altered, and shall file the approved plat only if it is accompanied by the documents specific in Section 3 of Appendix F, Uniform Standards for Final Subdivision Plats.

* The governing body or its designated agent shall complete its review within a reasonable period of time so as to allow for a thorough review. Between 30 and 60 days are typically necessary.

** In some jurisdictions, the governing body assumes this responsibility, whereas in other areas, the subdivider is responsible. When adopting local subdivision regulations, the governing body should specify the responsible party.

TABLE 2: Final Plat Review Process -- Major Subdivision

1. Applicant prepares final plat and satisfies all conditions placed upon approval.

2. Final plat submitted to planning board or planning director within one year of preliminary plat approval.

3. Final plat reviewed by governing body or designated agent within time frame specified by local subdivision regulations.

4. Final plat approved by governing body when plat conforms to conditions of approval, Montana Subdivision and Platting Act, and local subdivision regulations.

5. Final plat filed with ten days of final plat approval. Plat and supplementary documents filed with the clerk and recorder by the governing body.

NOTE: Applicant may withdraw application at any time during preliminary or final plat review, and the process is terminated.

[illegible]

Incomplete applications along with the review fee shall be returned to the subdivider along with a statement describing the deficiencies. The subdivider may correct the deficierciesand resubmit the application at the next meeting of the planning board.

(Option II -- for jurisdictions with a planning director and a planning board:)

The application materials and fee shall be submitted to the planning director 10 days prior to a regular meeting of the planning board. The planning director will review the information to determine whether or not the application is complete. If the application is complete, the planning board shall review the proposed subdivision in accordance with procedures set forth in Section II.D.5., of these regulations. The 35 day review period shall commence on the date of the planning board meeting at which the subdivision is reviewed.

If the planning director determines that the application is incomplete, the subdivider shall be notified of the deficiencies at least five days prior to the planning board meeting. The subdivider may then correct the deficiencies and present the application to the planning board. If the application is complete, the procedure specified above shall be followed.

2. Minor Subdivision Plat Form and Contents

The minor subdivision plat submitted for review may, at the subdivider's discretion, be prepared in form and with contents and supplements as required for preliminary plats in Appendix B of these regulations or may be prepared in conformance with the Montana Uniform Standards for Final Subdivision Plats (Appendix F). The minor subdivision plat shall conform to the design standards as set forth in Section III of these regulations.

3. Exemptions from Environment Assessment

For the first minor subdivision created from a tract of record the requirement for an environmental assessment shall not apply. For the second or subsequent minor subdivisions from a tract of record the planning board may require preparation of all or part of the environmental assessment.

When required, the assessment shall follow the format contained in all three parts of Appendix A of these regulations, the Montana Department of Health and Environmental Sciences/Local Government Joint Subdivision Application Form.

4. Public Hearing

For the first minor subdivision created from a tract of record the requirement for holding a public hearing shall not apply. For the second or subsequent minor subdivision from a tract of record the planning board shall require a public hearing. When a public hearing is held, the requirements in Section II.B.2. of these regulations shall be followed.

5. Minor Subdivision Plat Approval

The planning board shall:

a. consider the following:
   1) relevant evidence relating to the public health, safety, and welfare;
   2) any officially adopted comprehensive plan for the area involved; and
   3) public interest criteria as stated in Section II.B.3. of these regulations; and

b. advise the governing body as to whether the preliminary plat conforms to the provisions of:
   1) the Montana Subdivision and Platting Act;
   2) these regulations;
   3) applicable regulations and/or any officially adopted comprehensive plan for the area involved; and
   4) other regulations in effect in the area of the proposed subdivision; and

c. within ten days of the public hearing submit in writing the following to the governing body;
   1) its findings regarding the four items under Section b, above;
   2) recommended findings of fact which weigh the criteria for public interest; and
   3) a recommendation for approval, conditional approval, or disapproval of the plat.

Minor subdivision plat approval requirements shall be identical to preliminary plat approval requirements set forth in Section II.B.3. of these regulations, except that the governing body shall approve, conditionally approve, or disapprove the minor subdivision plat within 35 days of its presentation to the planning board and determination of completeness, unless the subdivider consents to an extension of the review period.

6. Minor Subdivision Plat Approval Period

The minor subdivision plat approval period shall be in accordance with Section II.B.4. of these regulations, Preliminary Plat Approval Period.

TABLE 3: Minor Subdivision Plat Review Process

1. Initial contact with planning board or planning director: applicant obtains guidelines, forms, and regulations.

2. Applicant develops concept.

3. Pre-application conference: applicant discusses proposal and plat with planning board or planning director. Potential problem areas are identified and regulations are highlighted.

4. Preparation of formal application based on regulations and pre-application conference.

5. Submission of formal application and planning board review:

   a. to a regular meeting of the planning board. If application is complete, planning board reviews the subdivision at that meeting and the 35 day review period starts; or

   b. to the planning director ten days prior to a regular meeting of the planning board. If application is complete, planning board reviews the subdivision at that meeting and the 35 day review period starts.

6. Planning board recommendation for approval, conditional approval or disapproval of minor subdivision submitted in writing to the governing body and subdivider within ten days of planning board meeting.

7. Governing body action to approve, conditionally approve or disapprove minor subdivision must be completed within the 35 day time limit.

NOTE: Applicant may request an extension of the review process time limit at any stage.

7. Minor Subdivision Final Plat

The final plat shall be in accordance with the appropriate procedural requirements contained in Section II.C. of these regulations, Final Plat. Table 4, below, summarizes the final plat review process for minor subdivisions.

TABLE 4: Final Plat Review Process -- Minor Subdivision

1. Applicant prepares final plat and satisfies all conditions placed upon approval.

2. Final plat submitted to planning board or planning director within one year of preliminary plat approval.

3. Final plat reviewed by governing body or designated agent within time frame specified by local subdivision regulations.

4. Final plat approved by governing body when plat conforms to conditions of approval, Montana Subdivision and Platting Act, and local subdivision regulations.

5. Final plat filed within 10 days of final plat approval. Plat and supplementary documents filed with the clerk and recorder by the governing body.

NOTE: Applicant may withdraw application at any time during preliminary or final plat review, and the process is terminated.

E. Correcting or Amending Filed Final Plats

1. Correcting Filed Final Plats

Corrections of drafting or surveying errors that in the governing body's opinion will not materially alter the plat may be made by the submission of a corrected final plat for the governing body's approval. The plat shall be entitled "Corrected Plat of the (name of subdivision) Subdivision" and the reason for the correction shall be stated on the face of the plat. The plat may be filed under the procedures for minor subdivision plats, Section II.D. of these regulations.

2. Amending Final Plats

a. Material Alterations

Changes that materially alter any portion of the filed final plat, its land divisions, or improvements shall be made by the filing of an amended plat showing all alterations. Within a platted subdivision, any division of lots which results in an increase in the number of lots, or which redesigns or rearranges six or more lots, must be reviewed and approved by the governing body and an amended plat must be filed with the county clerk and recorder.

The amended plat shall be subject to procedures for major or minor subdivisions, as is appropriate. (See Sections II.A-C. of these regulations for major subdivisions or Section II.D. for minor subdivisions.)

The governing body may not approve an amendment which will place the plat in non-conformance with the standards contained herein unless a public hearing is held on the plat and a written variance from the standards issued pursuant to Section VII.B. of these regulations, Administrative Provisions, Variances.

The governing body may not approve an amendment unless it is consented to in writing by all affected property owners.

The final amended plat submitted for approval shall comply with the Montana Uniform Standards for Final Subdivision Plats (Appendix F), with the exception that the title shall include the word "Amended." ("Amended plat of the (name) Subdivision" or "(name) Subdivision, Amended.")

b. Exemptions from Amended Plat Review

Amended subdivision plats are subject to the appropriate procedural requirements contained in Sections II.A-D. of these regulations except that the relocation of common boundaries and the aggregation of lots within platted sub-

divisions where five or fewer of the original lots are affected within a platted subdivision filed with the county clerk and recorder are exempt from approval as a subdivision. An amended plat must be prepared following the requirements of the Montana Uniform Standards for Final Subdivision Plats (Appendix F) except that in place of the governing body's approval the landowner certifies that the approval of the governing body is not required pursuant to Section 76-3-207 (1), MCA.

III. GENERAL DESIGN AND IMPROVEMENT STANDARDS

All subdivisions approved by the governing body shall comply with the provisions of this section, except where granted a variance pursuant to Section VII.B., Variances. For planned unit developments, subdivisions created by rent or lease, and condominiums, refer to Section IV, V and VI of these regulations.

A. General Standards

1. Conformance

The design and development of a subdivision shall conform with any adopted comprehensive plans, zoning ordinance, health department and other resolutions and regulations. Where no zoning regulations are in effect, maximum density and minimum lot size shall be established in consultation with local and state health authorities.

2. Natural Environment

The design and development of subdivisions shall contain satisfactory building sites which are properly related to topography, and shall preserve the natural terrain, natural drainage, existing topsoil, trees and natural vegetation to the extent possible.

3. Lands Unsuitable for Subdivision

Land which the governing body has found to be unsuitable for subdivision because of potential hazards such as flooding, snow avalanches, rock falls, land slides, steep slopes in excess of 25% grade, subsidence, high water table, polluted or non-potable water supply, high voltage lines, high pressure gas lines, air or vehicular traffic hazards or congestion; or because of unreasonable burdens on the general public such as requirements for the excessive expenditure of public funds or environmental degradation; or other features which may be detrimental to the health, safety, or general welfare of existing or future residents shall not be subdivided for building or residential purposes unless the hazards are eliminated or will be overcome by approved design and construction plans.

4. Floodplain Provisions

Land located in the floodway of a flood of 100 year frequency as defined by Title 76, Chapter 5, MCA, or land deemed subject to flooding as determined by the governing body shall not be subdivided for building or residential purposes, or other uses that may increase or aggravate flood hazards to life, health, or property.

If any portion of a proposed subdivision is within 2,000 horizontal feet and 20 vertical feet of a live stream draining an area of 25 square miles or more, and no official floodway delineation or floodway studies of the stream have been made, the subdivider shall furnish survey data to the Floodplain Management Section of the Water Resources Division of the Montana Department of Natural Resources and Conservation. Survey data shall comply with the Standards for Flood Hazard Evaluations as

contained in Appendix C of these regulations. After the Floodplain Management Section of the Water Resources Division has prepared a report delineating the floodway, the subdivider shall submit it to the planning board (or planning director) along with the Environmental Assessment required for the preliminary plat.

The governing body shall waive this requirement where the subdivider contacts the Water Resources Division and that agency states in writing that available data indicate that the proposed subdivision is not in a flood hazard area.

5. Improvement Design

Engineering and survey plans, specifications, and reports required in connection with public improvements and other elements of the subdivision required by the governing body shall be prepared by a registered engineer or a registered land surveyor as their respective licensing laws allow in accordance with the Montana Subdivision and Platting Act and these regulations.

6. Lots

Each lot shall contain a satisfactory building site which is properly located to topography and conforms to health department regulations, zoning regulations, and these regulations.

a. No single lot shall be divided by a municipal or county boundary line.

b. No single lot shall be divided by a public street, road, alley, right-of-way or easement.

c. Each lot shall abut and have access to a public or private street or road. Alleys may not be used to provide the primary means of access to a lot.

d. Corner lots shall have driveway access to the same street or road as interior lots.

e. Corner lots shall be of sufficient area to provide acceptable visibility for traffic safety.

f. No lot shall have an average depth greater than three times its average width.

g. Side lot lines shall be at substantially right angles to street or road lines and radial to curved street or road lines.

h. Through lots are prohibited except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography or orientation.

7. Blocks

a. Blocks shall be designed to assure traffic safety and ease of traffic control and circulation, to accommodate the special needs of the use contemplated, and to take advantage of the limitations and opportunities of the topography.

b. Block length shall not be designed, unless otherwise impractical, to be more than 1,600 feet.

c. Blocks shall be wide enough to allow for two tiers of lots except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation or unless the governing body approves the design of irregularly shaped blocks indented by cul-de-sacs.

d. Rights-of-way for pedestrian walks, not less than ten feet wide, shall be required where deemed essential to provide circulation or safe access to schools, playgrounds, shopping, transportation and other community facilities.

8. Streets and Roads

a. Design

1) The arrangement, type, extent, width, grade and location of all streets shall be considered in their relation to existing and planned streets, to topographical conditions, and to public convenience and safety, and in their relation to the proposed uses of the land to be served by them.
2) Roads in low density subdivisions shall meet the design specifications in Table 5.
3) Streets and roads in high density subdivisions shall meet the design specifications in Table 9.
4) All streets within a subdivision shall either be dedicated to the public or be private streets to be owned and maintained by an approved property owners' association.
5) Residential driveways shall not have direct access to primary highways. For extreme circumstances, the Montana Department of Highways may issue a road approach permit.
6) Local streets shall be designed so as to discourage through traffic.
7) Whenever a subdivision abuts or contains an existing or proposed arterial highway or major thoroughfare, the governing body may require frontage roads, with a reservation prohibiting access along the rear property line, deep lots, or other treatment as may be necessary for adequate protection of residential properties and to separate arterial and local traffic.
8) Dead-end streets are prohibited. Where future street extension is proposed, a cul-de-sac shall be provided.

9) Half streets are prohibited except where essential to the development of the subdivision and where the governing body is assured that it will be possible to require the dedication of the other half of the street when the adjoining property is subdivided. Wherever an existing half street is adjacent to a tract to be subdivided, the other half of the street shall be platted within such tract.

10) Horizontal alignment of streets shall ensure adequate sight distances. When street center lines deflect more than five degrees, connection shall be made by horizontal curves.

11) Intersections. The following items apply to intersections:
   a) streets shall intersect at 90 degree angles, except when topography precludes, and in no case shall the angle of intersection be less than 60 degrees to the center line of the roadway being intersected.
   b) two streets meeting a third street from opposite sides shall meet at the same point, or their center lines shall be offset at least 125 feet for local roads and 300 feet for arterials or collectors.
   c) no more than two streets may intersect at one point.
   d) intersections of local streets with major arterials or highways shall be kept to a minimum.
   e) intersection design shall provide acceptable visibility for traffic safety as dictated by the designed operating speeds on the individual roadways.
   f) hilltop intersections are prohibited, except where no alternatives exist. Intersections on local roads within 100 feet of a hilltop are prohibited. Intersections on arterial and collector roads within 200 feet of a hilltop are prohibited.
   g) maximum grade of approach to major highways shall not exceed five percent.

12) Names of new streets aligned with existing streets shall be the same as those of the existing streets. Proposed street names shall not duplicate or cause confusion with existing street names.

b. Improvements

1) All roadway improvements including pavement, curbs, gutters, sidewalks, and drainage shall be constructed in accordance with the specifications and standards prescribed in these regulations, using materials approved by the governing body.

2) Roadway subgrades shall be free of topsoil, sod, vegetation or organic matter, soft clay, or other objectionable materials, properly rolled, shaped and compacted and subject to approval by the governing body.

3) Where access to the subdivision will be by an easement across privately-owned property, the subdivider must provide evidence that the necessary easement has been acquired and that the easement encompasses the the nature and intensity of the use which will result from development of the subdivision.

4) Existing trees and other vegetation shall be preserved where possible. Plantings may be required for buffering, screening, or soil erosion protection and are subject to approval by the governing body.

5) Street light installation may be required by the governing body on all streets within the subdivision or may be included as part of the public improvements agreement.

6) Street or road signs and traffic control devices of the size, shape and height as approved by the governing body shall be placed at all intersections by the developer or included as part of the public improvements agreement. Traffic control devices shall be consistent with the "Manual on Uniform Control Devices," available from the Montana Department of Highways.

7) If mail delivery will not be to each individual lot within the subdivision, the developer shall provide an off-street area for mail delivery within the subdivision in cooperation with the United States Post Office. Responsibility for maintenance may be included as part of the public improvements agreement.

8) An addressing system shall be developed in conformance with the requirements of (name of agency)*.

* Local regulations should specify which agency regulates addressing. Depending on the jurisdiction, the county surveyor, planning department, utility company, Post Office, fire district, or other agency administers addressing functions.

TABLE 5: Road Design Standards for Low Density Subdivisions

Low Density Subdivision: A subdivision within which the density of development is not more than one dwelling unit per acre exclusive of public roadways, and which is located one mile or more from a third class city, two miles or more from a second class city, or three miles or more from a first class city.

Minimum Design Standards[a/]	Major Collector[b/]	Minor Collector (Secondary Road)	Local Road
1. Minimum right-of-way width	80 ft.	60 ft.	60 ft.
2. Minimum roadway width[c/d/]	36 ft.[e/]	26 ft.[f/]	26 ft.[f/]
3. Minimum curb radius or edge of pavement at intersections	30 ft.	25 ft.	15 ft.
4. Maximum grades			
a. flat and rolling terrain[g/]	6%	8%	9%[i/]
b. hilly terrain[h/]	8%	10%	10%[i/]
5. Minimum stopping sight distance	300 ft.	200 ft.	150 ft.
6. Curvature[j/]			
a. at design speed of road	40 mph	30 mph	20 mph
b. maximum curve	12.5°	23°	53.5°
c. minimum radius	458 ft.	249 ft.	107 ft.
7. Cul-de-sacs			
a. maximum length	-	-	1000 ft.[k/]
b. minimum outside right-of-way radius	-	-	40 ft[k/]
c. minimum outside roadway radius	-	-	35 ft[k/]
8. New bridges			
a. curb-to-curb widths[l/m/]	36 ft.	26 ft.	26 ft.
b. AASHO design load[n/]	H-20	H-15	H-15
c. vertical clearance	14.5 ft.	14.5 ft.	14.5 ft.

a/ The following are minimum design standards. Local jurisdictions are encouraged to review these standards and incorporate any reasonable desired revisions.
b/ A major collector is a road which could be put on the Federal Aid Primary (FAP) System.
c/ Where parking will be permitted add an additional eight feet on each side.
d/ If guardrail installation is required or a shoulder is desired, add an additional two feet to each side of roadway.
e/ Roadway widths shown are minimums on each side. Depending on Average Daily Traffic (ADT) count the width should be increased in accordance with Table 6.
f/ Roadway widths shown are minimums. Depending on ADT count, the width should be increased in accordance with Table 7.
g/ Flat and rolling terrain is that with a cross slope of less than 15%.
h/ Hilly terrain is that with a cross slope of 15% or greater.

TABLE 5, continued

i/ Grades over 10% shall not exceed 100 feet in length.
j/ Curvature is based on a superelevation of .08/ft.
k/ Could include eight foot parking lane on both sides.
l/ Width of the roadway surface on the bridge should match the width of the roadway system it connects to.
m/ Bridge widths shown are minimums. Depending on ADT count the width should be increased in accordance with Table 8.
n/ American Association of State Highway Officials.

TABLE 6: Minimum Roadway Widths for Major Collectors

		Topography		
	ADT Count	Flat	Rolling	Mountainous
	0 - 100	26	26	26
	100 - 450	28	28	28
Roadway Widths in Feet	450 - 700	30	30	28
	700 - 1400	36	34	34
	1400 - 2800	40	40	40
For design speeds in excess of 40 mph.	Over 2800	44	44	44

Note: ADT counts are available from the Montana Department of Highways, Preconstruction Section, for most major collectors.

Source of Table: Montana Department of Highways.

TABLE 7: Minimum Roadway Widths for Minor Collectors and Local Roads

MINIMUM WIDTH OF SURFACING AND GRADED SHOULDER

Design Speed, MPH	Current ADT Less Than 50	Current ADT 50-250	Current ADT 250-400	Current ADT 400-750 DHV 100-200	DHV 200-400	DHV 400 & Over
			Width in Feet for Design Volume of:			
				Width of Surfacing		
20	20	20	20	20	22	24
30	20	20	20	20	22	24
40	20	20	20	22	22	24
50	20	20	20	22	24	24
60	20	20	22	22	24	24
				Width of Graded Shoulder		
All	2	4	4	6	8	8

Notes: Design volume in terms of mixed traffic. For design speeds of 50 mph or less, surfacing widths that are two feet narrower may be used on minor roads with few trucks.

ADT counts are available from the Montana Department of Highways, Preconstruction Section Division, for most minor collectors and local roads.

DHV is the design hourly volume for the future design year.

Source of Table: American Association of State Highway Officials (AASHO) Design Guide, Table 7, page 9.

TABLE 8: Roadway Widths for Bridges

CLEAR ROADWAY WIDTHS
FOR NEW AND RECONSTRUCTED BRIDGES

Design Speed	ADT Volume	Minumum Clear Roadway Width of Bridge
50 MPH and over	750 or Greater	Approach Rodway Width
50 MPH and over	Under 750	Pavement Width + 6'
Under 50 MPH	400 or Greater	Pavement Width + 6'
Under 50 MPH	Under 400	Pavement Width + 4'

Notes: Where the approach roadway is surfaced for the full crown width that surfaced width should be carried across structures.

On highways with a current ADT over 750, bridges with a total length over 100 feet may be constructed with a minimum clear roadway width of the surfacing width plus six feet.

Source of Table: AASHO Design Guide, Table 8, page 10.

TABLE 9: Street Design Standards for High Density Subdivisions

High Density Subdivision: A subdivision within which the density of development is greater than one dwelling unit per acre exclusive of public roadways, or which is located within one mile of a town or third class city, two miles of a second class city, or three miles of a first class city.

Minimum Design Standards[a/]	Arterial	Collector	Local
1. Minimum right-of-way width	80 ft.	60 ft.	60 ft.
2. Minimum roadway width[b/c/]	36 ft.	26 ft.	26 ft.
3. Minimum curb radius or edge of pavement at intersections	30 ft.	30 ft.	15 ft.
4. Maximum grades			
a. flat and rolling terrain[d/]	7%	8%	9%
b. hilly terrain[e/]	9%	10%	11%[f/]
5. Minimum stopping sight distance	375 ft.	200 ft.	150 ft.
6. Curvature[g/]			
a. at design speed for road	40 mph	30 mph	20 mph
b. maximum curve	10°	19°	53°
c. minimum radius	561 ft.	300 ft.	120 ft.
7. Cul-de-sacs			
a. maximum length	-	-	1000 ft.
b. minimum outside right-of-way	-	-	40 ft. [h/]
c. minimum outside roadway radius	-	-	35 ft. [h/]
8. New bridges			
a. curb-to-curb width [i/j/]	36 ft.	26 ft.	26 ft.
b. AASHO design load [k/]	H-20	H-15	H-15
c. vertical clearance	14.5 ft.	14.5 ft.	14.5 ft.

a/ The following are minimum design standards. Local jurisdictions are encouraged to review these standards and incorporate any reasonable desired revisions.
b/ Where parking will be permitted add an additional eight feet on each side.
c/ If guardrail installation is required or a shoulder is desired, add an additional two feet to each side of roadway.
d/ Flat and rolling terrain is that with a cross slope of less than 15%.
e/ Hilly terrain is that with a cross slope of 15% or greater.
f/ Grades over 10% shall not exceed 100 feet in length.
g/ Curvature is based on a superelevation of .04/ft to .06/ft.
h/ Could include eight foot parking lane on both sides.
i/ Width of the roadway surface on the bridge should match the width of the roadway system it connects to.
j/ Bridge widths shown are minimums. Depending on ADT count the width should be increased in accordance with Table 8.
k/ American Association of State Highway Officials.

9. Drainage Facilities

a. The drainage system and facilities required for any surface run-off affecting the subidvision shall meet the minimum standards of the Montana Department of Health and Environmental Sciences and all regulations adopted pursuant thereto, and are subject to the approval of the governing body.

b. Streets and roads shall be designed to ensure proper drainage.

c. Curbs and gutters or swales shall be required as determined by the governing body according to the character of the area, density of development, and nature of adjoining properties. Curbs and gutters of adjoining properties shall be extended according to current specifications of local and state authorities.

d. Culverts or bridges of adequate size shall be provided and installed by the subdivider where drainage channels intersect any street right-of-way or easement. All culverts shall extend at least across the entire width of the base of the fill; the amount of backfill to be placed over the culvert and the culvert's capacity shall be determined by a qualified engineer. This shall include arrangements for driveway culverts.

e. The subdivider shall provide suitable drainage facilities for any surface run-off affecting the subdivision; these facilities shall be located in street rights-of-way or in perpetual easements of appropriate widths and are subject to approval by the governing body.

f. Each culvert or other drainage facility shall be large enough to accommodate potential run-off from upstream drainage areas.

g. Drainage systems shall not discharge into any sanitary sewer facility.

h. The grading and drainage system shall be designed and certified by a registered engineer.

10. Water Supply Systems

a. All water supply systems shall meet the minimum standards of the Montana Department of Health and Environmental Sciences.

b. The water supply system shall be subject to approval by the governing body which may require that any proposed central system provide adequate and accessible water for fire protection.

c. Where the subdivision is within the service area of a public water supply system, the subdivider shall install complete water system facilities in accordance with the requirements of the water district involved and the Montana Department of Health and Environmental Sciences. The subdivider shall submit plans and specifications for the proposed facilities to the water district involved and to the Montana Department of Health and Environmental Sciences, and shall obtain their approvals prior to undertaking any construction.

11. Sewage Treatment Systems

a. All sewage treatment systems shall meet the minimum standards of the Montana State Department of Health and Environmental Sciences.

b. The means of sewage treatment shall be subject to approval by the governing body.

c. Where the subdivision is within the service area of a public sanitary sewer system, the subdivider shall install complete sanitary sewer system facilities in accordance with the requirements of the sewer district involved and the Montana Department of Health and Environmental Sciences. The subdivider shall submit plans and specifications for the proposed facilities to the sewer district involved and to the Montana Department of Health and Environmental Sciences, and shall obtain their approvals prior to undertaking any construction.

12. Solid Waste

The subdivider shall assure that provisions for collection and disposal of solid waste meet the regulations and minimum standards of the Montana Deaprtment of Health and Environmental Sciences. The means for solid waste collection and disposal shall be subject to approval by the governing body.

13. Utilities

a. Utilities shall be placed underground, wherever practical. Underground utilities, if placed in the street right-of-way, shall be located between the roadway and the right-of-way line to simplify location and repair of lines. Such underground facilities shall be installed after the street has been brought to grade and before it is surfaced, to eliminate so far as practicable the necessity for disturbing such surfacing for the connection of individual services.

b. Overhead utility lines shall be located at the rear property line, where practical.

c. Utility facilities shall be designed by utility firms in cooperation with the subdivider, subject, however, to all applicable laws and all rules and regulations of any appropriate regulatory authority having jurisdiction over such facilities.

14. Easements

a. Where required by the governing body, easements shall be provided for utilities, drainage and vehicular or pedestrian access.

b. Utility easements shall be centered along side and rear lot lines wherever necessary, and, if placed in the street, be located between the roadway and the right-of-way line.

c. Utility easements shall be 15 feet wide unless otherwise specified by a utility company or governing body.

d. Where a utility is to be located in an existing, dedicated right-of-way, a notice of utility occupancy must be obtained from the governing body local or state highway department.

e. Where a subdivision is traversed by a watercourse, drainage way, channel, ditch, or stream, easements or rights-of-way may be required to parallel the lines of such watercourse at a sufficient width to allow for maintenance. A minimum width of ten feet is required on each side of irrigation canals for maintenance purposes.

f. In addition to showing the location of the utility easement on the plat with dashed lines, the following statement shall be on the final plat:

"The undersigned hereby grants unto each and every person, firm or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as "Utility Easement" to have and to hold forever."

15. Park Land

a. A plat of a residential subdivision shall show that one-ninth (1/9) of the combined area of lots five acres or less in size and one-twelfth (1/12) of the combined area of lots greater than five acres in size, exclusive of all other dedications, is forever dedicated to the public for parks or playgrounds. No dedication may be required for the combined area of those lots in the subdivision which are larger than ten acres exclusive of all other dedications. The governing body, in consultation with the planning board having jurisdiction, may determine suitable locations for such parks and playgrounds.

b. Where, because of size, topography, shape, location or other circumstances, the dedication of land for parks or playgrounds is undesirable, the governing body may, for good cause shown, make an order to be endorsed and certified on the plat accepting a cash donation in lieu of the dedication of land that would have been dedicated. For the purpose of this section, the fair market value is the value of the unsubdivided unimproved land. Such cash donation shall be paid into the park fund to be used for the purchase of additional lands or for the initial development of parks and playgrounds.

    1) Where cash has been accepted in lieu of land dedication, the amount of cash donation shall be stated on the final plat.
    2) Where cash has been accepted in lieu of land dedication, the governing body shall record in the minutes of the hearing upon the proposed subdivision why the dedication of land for parks and playgrounds was undesirable.
    3) The fair market value shall be determined as of the date of submission of the preliminary plat.
    4) It shall be the responsibility of the subdivider to provide satisfactory evidence of the fair market value. When the subdivider and the governing body are unable to agree upon the fair market value, the governing body may require the fair market value be established by an appraisal done by a qualified real estate appraiser of its choosing. The appraisal fee shall be the responsibility of the developer.

c. The park dedication and cash in lieu requirements of subsections (a) and (b) do not apply to any division that creates only one additional lot.

d. If a tract of land is being developed under single ownership as a part of an overall development plan, and part of the tract has been subdivided and sufficient park lands have been dedicated or cash donated in lieu to the public from the area that has been subdivided to meet the requirements of this section for the entire tract being developed, the governing body shall issue an order waiving the land dedication and cash donation requirements for the subsequently platted area.

e. The local governing body may waive dedication and cash donation requirements where all of the parcels in a subdivision are five acres or more in size and where the subdivider enters a covenant to run with the land and revocable only by mutual consent of the governing body and the property owner that the parcels in the subdivision will never be subdivided into parcels of less than five acres and that all parcels in the subdivision will be used for single family dwellings.

f. The governing body may waive dedication and cash donation requirements when the subdivider agrees to create a property owners' association for the proposed subdivision and to deed to the association land to be held in perpetuity for use as parks or playgrounds. The area of land to be deeded to the association shall equal the amount that would otherwise have been dedicated to public use.

g. All subdivisions shall be considered to be residential subdivisions and park requirements shall be satisfied unless there are adopted zoning restrictions or covenants which prohibit residential development or it can be shown that the subdivider has immediate plans for non-residential development.

16. Fire Protection

All subdivisions shall be planned, designed, constructed, and maintained so as to minimize the risk of fire and to permit the effective and efficient suppression of fires in order to protect persons, property, and forested areas. Measures shall include:

a. The placement of structures in such a manner so as to minimize the potential for flame spread and to permit efficient access for fire fighting equipment.

b. The presence of adequate fire fighting facilities on site, when required by the governing body.

c. An adequate water supply and water distribution system to fight fires on site, when required by the governing body.

d. The availability, through a fire protection district or other means, of fire protection services adequate to respond to fires that may occur within a subdivision.

B. Special Standards for Subdivisions Proposed in Areas of High Fire Hazard

High fire hazard areas include heads of draws, excessive slopes, dense forest growth or other hazardous wildfire components. For subdivisions proposed in areas subject to high wildfire hazard as determined by the U.S. Forest Service or the Forestry Division of the Montana Department of Lands, the following standards shall apply:

1. At least two entrance-exit roads shall be provided to assure more than one escape route for residents and access routes by fire fighting vehicles.

2. Road right-of-way shall be cleared of slash.

3. Building sites shall be prohibited on slopes greater than 30 percent and at the apex of "fire chimneys" (topographic features, usually drainageways or swales, which tend to funnel or otherwise concentrate fire toward the top of steep slopes).

4. Densities in areas of steep slopes or dense forest growth shall be reduced through minimum lot standards as follows:

% Slope	Minimum Lot Size (Acres) Open Grass	Forest & Brush
0-10	1	2
10-20	2	3
20-30	3	4
over 30	5	not permitted

5. Open space, park land and recreation areas (including green belts, riding or hiking trails) should be located, where appropriate, to separate residences and other buildings from densely forested areas.

6. A water supply of sufficient volume for effective fire control shall be provided in accordance with standards set by (the appropriate local fire protection authority).*

* In absence of such standards, a water supply of sufficient volume for effective fire control shall at a minimum provide as follows:

a. A minimum of 500 gallons per minute for lots one acre or larger.

b. A minimum of 750 gallons per minute for higher densities.

c. Where no central water system exists, cisterns of minimum capacity of 500 gallons per dwelling unit shall be provided at appropriate locations.

IV. PLANNED UNIT DEVELOPMENTS

A. Intent

The intent of this section is to provide flexibility in certain subdivision standards, allowing the subdivider creativity in subdivision design using a concept which clusters development to promote economies in providing services while preserving and enhancing open space and unique natural features. The Planned Unit Development (P.U.D.) concept promotes the planning of an individual tract of land to allow for an individual use such as residential or for a harmonious combination of uses, such as a mixture of residential and commercial.

B. Designation as P.U.D.

1. The development shall be in compliance with P.U.D. provisions in local zoning regulations. Where such provisions do not exist, the proposed subdivision must be designated as a P.U.D. by the planning board before being reviewed under this Section. To obtain designation of a subdivision as a P.U.D., the subdivider, before submitting a preliminary plat application, must submit to the planning board (or planning director) the following:

   a. A written request that the plan of the proposed subdivision is to be reviewed as a P.U.D.

   b. A layout plan showing the proposed location and use of lots and structures, and the location and number of parking spaces, if appropriate.

   c. A sketch plan of the proposed subdivision, containing all information requested in Section II.A.3., Pre-application Procedures.

   d. A description of open space, recreational facilities, roads and other facilities proposed to be under common ownership.

   e. Proposed restrictive covenants, if any.

   f. A description of proposed forms of property ownership within the development.

   g. A statement describing measures to be taken to assure permanence and maintenance of open space and other facilities to be held in common ownership.

   h. A schedule showing street and utility improvement completion dates.

   i. A description of all proposed modifications from the Design and Improvement Standards, Section III.

   j. Any additional reasonable information that the planning board may require.

2. The planning board shall review the information and proposed plan and, before designating the subdivision a P.U.D. shall determine that the development plan promotes the clustering of individual building sites, conforms to the definition and intent of this section, and does one or more of the following:

a. Preserves to the maximum extent possible the natural characteristics of the land including topography, vegetation, streams and other bodies of water.

b. Provides economies in the provision of roads and other public improvements.

c. Preserves productive agricultural land.

d. Protects important historic sites or structures or areas of important wildlife habitat.

e. Provides developed facilities for recreational purposes.

3. The planning board shall review the plan and within ten days of the planning board meeting, write a letter to the subdivider stating that the plan has or has not been designated a P.U.D. If designation as a P.U.D. is disapproved, the reasons for disapproval shall be stated in the letter.

4. Designation as a P.U.D. does not constitute approval of the specific details or modifications proposed by the plan.

C. Procedures

If the governing body designates the development plan a P.U.D., the preliminary plat may be submitted for review. Submittal shall comply with requirements and procedures contained in Sections II.A-C of these regulations:

II. A. Subdivision Review and Approval Procedures
B. Preliminary Plats
C. Final Plats

D. Standards

1. P.U.D.'s shall comply with the appropriate standards contained in Section III.A. of Design and Improvement Standards, as follows:

III. A. 1. Conformance
2. Natural Environment
3. Lands Unsuitable for Subdivision
4. Floodplain Provisions
5. Improvement Design
9. Drainage Facilities
10. Water Supply Systems
11. Sewage Treatment Systems
12. Solid Waste
13. Utilities
14. Easements
16. Fire Protection

2. The design and improvement standards contained in Section III.A.6-8 and 15 (lots, blocks, streets and roads, and park land requirements) may be modified by the governing body upon request of the subdivider where the plan for a P.U.D. includes provisions for efficient traffic circulation, adequate light, air and open space and where such standards are not practical or reasonable in respect to the overall P.U.D. subdivision design. In such cases, no application for a variance under Section VII.B. of these regulations shall be necessary.

3. In those areas where no zoning exists, the planning board shall determine in consultation with the subdivider the overall dwelling unit density.

4. The arrangement, type, extent, width, grade and location of all streets shall be considered in their relation to existing and planned streets to topographical conditions and to public convenience and safety.

5. Each planned unit residential development shall provide at least one-ninth (1/9) of the platted area, exclusive of all other dedications, for common open space. The open space shall be:

a. Held in common ownership by a property owners' association; or
b. Dedicated to public use, if acceptable to the governing body; or
c. A combination of "a" or "b" above.

The governing body may waive dedication and cash donation requirements when the subdivider agrees to create a property owner's association for the proposed subdivision and to deed to the association land to be held in perpetuity for use as parks or playgrounds.

V. SUBDIVISIONS CREATED BY RENT OR LEASE

A. Procedures

1. A subdivision created by rent or lease, such as mobile home or recreational vehicle park, is any tract of land divided by renting or leasing portions thereof. It is owned, however, as one parcel under single ownership.

2. Subdivisions created by rent or lease are exempt from the surveying and filing requirements of the Montana Subdivision and Platting Act but must be submitted for review and approved by the governing body before portions thereof may be rented or leased. Approval will be based upon the public interest criteria in Section II.B.3. of these regulations.

3. Subdivisions created by rent or lease shall comply with the appropriate procedures contained in Sections II.A. and II.B.2-3 of these regulations.

4. Before any portion of a rental or lease subdivision may be rented or leased the subdivider shall have installed all required improvements. Preliminary plans, profiles, tentative grades and specifications for proposed improvements shall be submitted to the governing body for its approval prior to the construction of improvements. The governing body may provide for inspection of all required improvements in order to assure conformance with the approved construction plans and specifications.

5. Where a rental or lease subdivision qualifies as a minor subdivision, it may receive summary review as provided for in Section II.D. of these regulations, Minor Subdivisions.

6. In lieu of filing a final plat, the subdivider shall submit a plan conforming to the requirements for preliminary plats contained in Appendix B, Preliminary Plat Form, Contents, and Supplements. The plan shall show the lot layout and the typical location of the mobile home, recreational vehicle, or other unit on the lot. The subdivider shall submit the plan to the planning board review committee (or planning director). The plan will be reviewed to assure that it conforms to the approved preliminary plan. The approved plan shall be maintained in the (office of the city clerk, clerk and recorder, planning, or other).

7. Tourist campgrounds and/or trailer courts are required to be licensed by the Montana Department of Health and Environmental Sciences under the provision of Title 50, Chapter 52, MCA.

B. General Standards for Subdivisions Created by Rent or Lease

1. Subdivisions created by rent or lease shall comply with the following provisions of Section III, Design and Improvements Standards, unless otherwise noted in Section V:

III.A.
1. Conformance
2. Natural Environment
3. Lands Unsuitable for Subdivision
4. Floodplain Provisions

8. Streets and Roads
9. Drainage Facilities
10. Water Supply Systems
11. Sewage Treatment Systems
12. Solid Waste
13. Utilities
16. Fire Protection

2. The governing body may require provision of:

a. Storage facilities on the lot or in compounds located within a reasonable distance.

b. A central area for storage or parking of boats, trailers, or other recreational vehicles.

c. Landscaping to serve as a buffer between the development and adjacent properites.

d. An off-street area for mail delivery.

e. Street lighting.

3. The governing body shall waive park land dedication and cash donation requirements for a subdivision to be created by rent or lease where the subdivider agrees to develop at least one-ninth (1/9) of the area of the development as park or playground. These areas shall be located to conveniently serve residents of the entire development. Recreation areas may include space for community recreation building and facilities.

4. The development shall be equipped at all times with fire control equipment in good working order of such type, size and number and so located within the park as prescribed by local fire authority, or to satisfy reasonable fire regulations.

C. Streets

1. Private streets shall be provided and improved in accordance with Section III.A.8, Streets and Roads and Tables 5 and 9 except in regard to roadway widths. Streets should be of adequate widths to accommodate the contemplated parking and traffic load. As a minimum, however, moving lanes must be ten feet wide, and parallel parking lanes must be eight feet wide. The subdivider shall not be required to reserve right-of-way in excess of the roadway width.

2. Streets shall be designed to permit safe placement and removal of mobile homes and recreational vehicles.

3. All lots and spaces shall be provided with safe and convenient vehicular access from abutting streets or roads.

4. Entrances shall have direct connections to a public street and shall be designed to allow free movement of traffic on such adjacent public streets. No parking shall be permitted on the entrance street for a distance of 100 feet from its point of beginning.

5. In all cases streets shall meet the following minimum width requirements:

a. All entrance streets and other collector streets without parking allowances..... 24 feet

b. Collector streets with parking allowances on both sides... 40 feet

c. Collector streets with parking allowances on one side..... 32 feet

d. Local streets with parking allowances on both sides..... 36 feet

e. Local streets with parking allowance on one side..... 28 feet

f. Local or cul-de-sac streets without parking allowance..... 24 feet

D. Mobile Home Park Standards

1. Mobile Home Lots

a. Mobile home lots shall be arranged to permit the safe and practical placement and removal of mobile homes.

b. All mobile homes shall be located at least 25 feet from any property boundary line abutting upon a public street or highway right-of-way and at least 15 feet from other boundary lines of the park.

c. The mobile home stand must be located at least ten feet from the street that serves it.

d. The size of the mobile home stand shall be suitable for the general market to be served and shall fit the dimensions of mobile homes anticipated.

e. A mobile home stand may not occupy more than one-third (1/3) of the area of its lot. The total area occupied by a mobile home and its roofed accessory buildings and structures may not exceed two-thirds (2/3) of the area of a lot.

f. The governing body may require that the mobile home stand be improved to provide adequate support for the placement and tie-down of the mobile home.

g. No mobile home nor its attached structures, such as awning or carports, may be located within 20 feet of any other mobile home or its attached structures.

h. No detached structure, such as a storage shed, may be located within five feet of any mobile home or its attached structures.

i. A minimum of two off-street parking spaces shall be provided on or adjacent to each mobile home lot. The driveway shall be located to allow for convenient access to the mobile home. The minimum width shall be ten feet.

j. One guest parking space for each ten mobile home lots shall be provided. Group parking may be provided.

k. The limits of each mobile home lot shall be clearly marked on the ground by permanent flush stakes, markers or other suitable means. Location of lot limits on the ground shall be approximately the same as shown on the acceptable plans. The degree of accuracy obtainable with an engineer's scale and a tape is acceptable. Precise engineering of lot limits is not required either on the plans or on the ground.

l. Each mobile home shall be skirted within 60 days after said mobile home is moved upon a lot within the mobile home park. Said skirtings shall be of a fire-resistant material similar to that of which the mobile home exterior is constructed and attached to the mobile home.

2. Electrical Systems

Electrical system installation shall be designed and constructed in accordance with the applicable codes adopted by the authority having jurisdiction. Where the state or other political subdivision does not assume jursdiction, such installations shall be designed and constructed in accordance with the applicable provisions of the "National Electrical Code" (NFPA Pamphlet 70-1981).

3. Gas Systems

Gas equipment and installations shall be designed and constructed in accordance with the applicable codes adopted by the authority having jurisdiction. Where the state or other political subdivision does not assume jurisdiction, such installation shall be designed and constructed in accordance with the appropriate provisions of the "National Fuel Gas Code" (NFPA Pamphlet 54-1981) and the "Standard for the Storage and Handling of Liquified Petroleum Gases" (NFPA Pamphlet 58-1981).

a. A readily accessible and identified shutoff value controlling the flow of gas to the entire gas piping system shall be installed near to the point of connection of the liquified petroleum gas container.

b. Each mobile home lot shall have an accessible, listed gas shutoff installed. Such valve shall not be located under a mobile home. Whenever the mobile home lot outlet is not in use, the shutoff valve shall be plugged to prevent accidential discharge.

E. Recreational Vehicle Park Standards

1. Recreational vehicles shall be separated from each other and from other structures by at least 15 feet. Any accessory structures such as attached awnings shall, for purposes of this separation requirement, be considered part of the recreational vehicle.

2. All recreational vehicle spaces shall be located at least 25 feet from a public street or highway right-of-way.

3. The density shall not exceed 25 recreational vehicle spaces per acre of gross site area.

VI. CONDOMINIUMS

A. Procedures

All condominium developments are subdivisions subject to the terms of the Montana Subdivision and Platting Act as follows:

1. The construction of condominium buildings or installation of related public improvements is not subject to subdivision review and approval procedures if the condominiums or improvements are to be constructed in a subdivision approved and filed after July 1, 1973, and if the approval of the subdivision was based on the anticipated construction of the condominiums and improvements.

2. Where no division of land is created by a condominium subdivison, the subdivision shall be reviewed under the procedures contained in Section V of these regulatons, Procedures for Subdivisions Created by Rent or Lease, with the following exception. In lieu of the completion of all required improvements before final approval is given, the subdivider may enter into a subdivision improvements agreement pursuant to Section II.C.5. of these regulations, Guarantee of Public Improvements.

3. Where divisions of land take place in a condominium subdivision, the subdivision shall be reviewed under the procedures contained in Sections II.A-C of these regulations.

B. Standards

1. Condominium developments shall comply with those standards contained in Section III, Design and Improvement Standards, which the governing body deems applicable.

2. Condominium developments shall meet the minimum standards of the Montana Department of Health and Environmental Sciences.

3. Condominium developments shall comply with all provisions of the Unit Ownership Act, Sections 70-23-102 through 70-23-703, MCA.

VII. ADMINISTRATIVE PROVISIONS

A. Fee Schedule

1. Preliminary Plat Review

To cover costs of reviewing plans, advertising, holding public hearings, or other expenses incidental to the approval of a subdivision, the subdivider shall pay a non-refundable fee at the time of application for approval of a preliminary subdivision plat. The fees, payable to the county (or city) treasurer or planning department, are as follows:

Number of Lots	Fee*
1-5 (minor subdivisions)	$75.00
6 or more (major subdivisions)	$100.00 plus $10.00 per lot

2. Final Plat Review and Inspection

To cover the cost of on-site inspection of the subdivision and review of the final plat and supplementary materials, the subdivider shall pay a non-refundable fee at the time of application for final approval to the county (or city) treasurer or planning department at the following rate:

1 or more lots	$75.00 plus $1.00 per lot*

3. Final Plat Filing

To cover the cost of filing the final plat and supplementary documents such as restrictive covenants, deeds, etc., Sections 7-4-2632 and 7-4-2651, MCA, provide that the following fees shall be paid by the subdivider to the county clerk and recorder:

1 or more lots	$5.00 plus $.50 per lot up to and including 100 lots; plus $.25 per lot for each additional lot in excess of 100; plus $2.00 per page

4. Final Plat Amendment or Correction

The property owners petitioning for the amendment or correction of a filed subdivision plat shall pay all related direct costs incurred by the governing body, including filing fees according to the above final plat filing fee schedule.

* These fee schedules are based upon review fees typically charged by jurisdictions throughout Montana, and are intended to serve as a guideline. The governing body should develop and adopt fee schedules based on actual subdivision review and processing costs. While costs vary between different jurisdictions, typical cost components include staff time, letters to landowners, and publication of notices of hearing, when required.

B. Variances

1. Hardship

The governing body may grant variances from the Design and Improvement Standards of these regulations when strict compliance would result in undue hardship and when it is not essential to the public welfare. Such variances shall not have the effect of nullifying the intent and purpose of these regulations. The governing body may not by variance permit subdivision for building purposes in areas located within the floodway of a flood of 100-year frequency as defined by Title 76, Chapter 5, MCA. The governing body shall not approve variances unless it makes findings based upon the evidence in each specific case that:

a. The granting of the variance will not be detrimental to the public health, safety, or general welfare or injurious to other adjoining properties;

b. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, an undue hardship to the owner would result if the strict letter of these regulations is enforced;

c. The variance will not cause a substantial increase in public costs; and

d. The variance will not in any manner place the subdivision in nonconformance with any adopted zoning regulations or comprehensive plan.

An innovative energy saving proposal which does not circumvent the purpose of these regulations may be reason for granting of a variance by the governing body.

2. Procedure

The subdivider shall include with the submission of the preliminary plat a written statement describing the requested variance and the facts of hardship upon which the request is based. The planning board and governing body shall consider each requested variance at the public meeting or hearing on the preliminary plat.

3. Conditions

In granting variances, the governing body may impose such conditions as will, in its judgment, secure substantially the objectives of these regulations.

4. Statement of Facts

When any such variance is granted, the motion of approval of the proposed subdivision shall contain a statement describing the variance and the facts and conditions upon which the issuance of the variance is based.

C. Amendment of Regulations

Before the governing body amends these regulations it shall hold a public hearing and shall give public notice of its intent to amend these regulations and of the public hearing by publishing notice of the time and place of the hearing in a newspaper of general circulation in the county not less than 15 nor more than 30 days prior to the date of the hearing.

D. Administration

1. Enforcement

Every final subdivision plat must be filed for record with the county clerk and recorder before title to the subdivided land can be sold or transferred in any manner. If unlawful transfers are made, the county attorney shall commence action to enjoin further sales or transfers and compel compliance with all provisions of the Montana Subdivision and Platting Act and these regulations. The cost of such action shall be imposed against the party not prevailing.

2. Violation and Penalties

Any person, firm, corporation, or other entity who shall violate any of the provisions of the Montana Subdivision and Platting Act or these regulations is guilty of a misdemeanor punishable by a fine of not less than $100.00 nor more than $500.00 or by imprisonment in jail for not more than three months or by both fine and imprisonment. Each sale, lease or transfer, or offer of sale, lease, or transfer of each separate parcel of land in violation of any provision of the Montana Subdivision and Platting Act or these regulations shall be deemed a separate and distinct offense.

3. Appeals

A decision of the governing body approving or rejecting a proposed subdivision plat may be reviewed by the district court. The application shall specify the grounds upon which it alleges the illegality of the action of the governing body.

APPENDIX A

Montana Department of Health and Enviornmental Sciences/Local Government Joint Application Form

Section 76-4-129, MCA provides that this Joint Subdivision Application Form may be used to apply for Department of Health and Environmental Sciences (DHES) approval of sanitary facilities of subdivisions under the Sanitation in Subdivisions Act and for subdivision approval by local governments under the Subdivision and Platting Act. The form replaces DHES's E.S. 91 form and local preliminary plat approval forms. Land owners thus are relieved from the burden of providing similar information on different forms under two separate laws.

A. When applying for subdivision review by the planning board and local governing body, the following parts of this form must be completed and submitted to the governing body or its designated agent:

1. Part I must be completed for all subdivisions required to be reviewed and approved by the local governing body.

2. Parts I, II and III must be completed for all subdivisions for which local subdivision regulations require submittal of an environmental assessment.

B. When applying for review of sanitary facilities by DHES, the following parts of this form must be completed and submitted to DHES:

1. Parts I and II must be completed for all subdivisions subject to review and approval by DHES.

C. When applying for concurrent review of the subdivision by the local governing body, and of sanitary facilities by DHES, the following parts of this form must be completed and submitted to the local governing body or its designated agent, or to DHES:

1. Parts I and II must be completed for all subdivisions for which concurrent review is requested.

2. Parts I, II and III must be completed for all subdivisions for which local subdivision regulations require submittal of an environmental assessment.

Copies of this Joint Application Form are available from:

- Montana Department of Health and Environmental Sciences, Subdivision Bureau;
- Montana Department of Commerce, Economic and Community Development Division;
- local sanitarians; and
- local planning offices.

Possible sources of information to contact when completing the form include the following:

Local Agencies

City or County Health Department
City Engineer or County Surveyor
County Road Supervisor
Conservation District
County Extension Service
Planning Board Staff
School District
Fire District or Department
Police or Sheriff's Department
Hospital or Ambulance Service
Chamber of Commerce
Telephone, Electrical Power, Gas and Cable Television Companies

State Agencies	Information	Location
Department of Fish, Wildlife and Parks	fisheries, vegetation and wildlife	Helena and regional offices
Department of Health and Environmental Sciences	water quality	Helena
Department of Highways	access to state highways, traffic data, maps, aerial photographs	Helena
Department of State Lands	fire hazards	Helena, Missoula
Department of Natural Resources and Conservation	surface and ground water, floodplains	Helena

Federal Agencies	Information	Location
Agriculture Stabilization and Conservation Service	aerial photographs	county offices
Bureau of Land Management	vegetation, maps topography	Billings and district offices
Forest Service	topography, surface and ground water, vegetation, wildlife, fire hazards, maps	Missoula regional, national forest and district offices
Geological Survey	geology, surface and ground water, water quality, floodways, topographic maps	Helena
Soil Conservation Service	soils, geology, surface and ground water, vegetation	Helena and county offices

Revised 5/82

Montana Department of Health and Environmental Sciences/Local Government Joint Application Form

PART I. GENERAL DESCRIPTION AND INFORMATION

1. Name, address and telephone number of landowner, and representative, if any (e.g.: engineer, surveyor).

_____
_____
_____
_____

2. Name of proposed development _____

3. Location (City and/or County) _____
¼ Section _____ Township _____ Range _____

For proposed amended plats:
Name of subdivision _____
Lot #(s) _____ Block #(s) _____

4. Is concurrent review by the local governing body and DHES requested?

Yes _____ No _____

5. Descriptive Data:

a. Number of lots or rental spaces _____
b. Total acreage in lots _____
c. Total acreage in streets or roads _____
d. Total acreage in parks, open space, and/or common facilities _____
e. TOTAL gross acreage of subdivision _____
f. Minimum size of lots or spaces _____
g. Maximum size of lots or spaces _____

Indicate the proposed use(s) and number of lots or spaces in each:

_____ Residential, single fmaily
_____ Residential, multiple family
_____ Types of multiple family structures and numbers of each (e.g.: duplex, 4-plex)
_____ Planned Unit Development (No. of units _____)
_____ Condominium (No. of units _____)
_____ Mobile Home Park
_____ Recreational Vehicle Park
_____ Commercial or Industrial
_____ Other (please describe) _____

Provide the following information regarding the development:

a. Current land use _____
b. Existing zoning or other regulations _____
c. Depth to groundwater at the time of year when water table is nearest to the natural ground surface within the drainfield area _____
d. Depth to bedrock or other impervious material in the drainfield area _____
e. A general description of the type of systems for water supply, sewage treatment and solid waste disposal.
f. An overall development plan indicating the intent for the development of the remainder of the tract, if a tract of land is to be subdivided in phases.
g. Drafts of any covenants and restrictions to be included in deeds or contracts for sale.
h. Drafts of homeowners' association bylaws and articles of incorporation, if applicable.*

* Submitting a draft copy of a homeowners' association bylaws and articles of incorporation is adequate for DHES to initiate and complete its review of sanitary facilities, but a copy of the fully executed documents must be submitted before DHES can issue final approval.

PART II REQUIRED INFORMATION FOR APPROVAL OF SANITARY FACILITIES UNDER SANITATION IN SUBDIVISIONS LAW

A. PHYSICAL CONDITIONS

Provide the following attachments:

a. A vicinity map showing the location of the proposal relative to the nearest town, highway or street system.
b. Map of soil types or soils survey, and if available, interpretation of soil suitability for the proposed land uses.
c. Topographic map of the development with contour intervals meeting the preliminary plat requirements of the local subdivision regulations.
d. On one or more copies of a preliminary plat* (a minor subdivision plat if applicable) prepared in accordance with local subdivision regulations, or a final plat, show the location of:
    1) any rock outcroppings.
    2) any areas subject to flood hazard, or if available, 100 year floodplain studies. (The Floodplain Management Section of the Water Resources Division of the Department of Natural Resources and Conservation may be contacted for assistance in determining flood hazard locations.)
    3) any natural water systems such as streams, rivers, intermittent streams, lakes or marshes (also indicate the names and sizes of each).
    4) any man-made water systems such as canals, ditches, aqueducts, reservoirs and irrigation systems (also indicate the names, sizes and present use of each).
    5) any existing or proposed utilities located within or adjacent to the subdivision, including: electrical power, natural gas, telephone service.

B. WATER SUPPLY

1. Where an individual water supply system is proposed for each parcel:

a. Indicate the distance to the nearest public water system.
b. If wells or springs are to be used, provide evidence that ground water supply meets DHES standards for quantity, quality and dependability (e.g.: well logs, chemical analyses). Where acceptable tests cannot be conducted, a hydrogeological report, which substantiates adequate quantity and quality of the water supply shall be submitted.
c. If cisterns are to be used:
    1) explain why cisterns are proposed.
    2) identify the source of water supply and provide evidence that it is of sufficient quantity and quality to serve the development.
    3) explain what provisions will be made for sanitary hauling of water.
d. Attach two copies of the plat showing the proposed location of each spring, well or cistern and indicating the distance to existing or proposed sewage disposal systems.

* Submitting a preliminary plat is adequate for DHES to initiate and complete its review of sanitary facilities, but a copy of the final plat must be submitted before DHES can issue final approval.

2. Where a public or multiple-family water system is proposed:

a. Estimate the number of gallons per day required by the development when fully developed (include required volume for domestic, fire protection and irrigation use if applicable).

b. Where an existing system is to be used:
   1) identify the system and the person, firm or agency responsible for its operation and maintenance.
   2) indicate the system's capacity to handle additional use and its distance from the development.
   3) provide evidence that permission to connect has been granted.
   4) provide two copies of the following attachments:
      a) map or plat showing location and sizes of any existing water supply lines and facilities which may directly serve parcels within the proposed development.
      b) engineering plans and specifications for all proposed extensions and additional lines and facilities. (In applying for DHES review, plans must be in sufficient detail to indicate sizes of lines and facilities and the capacity of the system. Complete plans and specifications must be submitted for final approval by DHES.)

c. Where a new system is to be used:
   1) provide evidence that the water supply is adequate in quantity, quality and dependability.
   2) indicate who will install the system, who will bear the costs, when it will be completed and who will own and maintain the system.
   3) provide two copies of the following as attachments:
      a) a plan for operation and maintenance of the system.
      b) engineering plans and specifications for the system. (When applying for DHES review, plans must be in sufficient detail to indicate sizes of lines and facilities and the capacity of the system. Complete plans and specifications must be submitted for final approval by DHES.)

C. SEWAGE TREATMENT

1. Where individual sewage treatment systems are proposed for each parcel:

a. Indicate the distance to the nearest public sewage disposal system.
b. Provide as attachments:
   1) two copies of the plat which show the proposed suitable location on each lot for a septic tank, a subsurface treatment system and a 100% replacement area for the subsurface treatment system. Show the location of neighboring wells and subsurface treatment systems and the distances to each.
   2) the results of percolation tests performed on each lot in the area of the proposed drainfield in accordance with DHES Bulletin 332. Each test hole shall be keyed by a number on a map of the report.
   3) a detailed soils description or map. If a soils description is not available or if high ground water or impervious layers are suspected, provide soils profile showing soil strata from test holes at least 7 feet in depth in the drainfield area. (Note: all major subdivisions require the 7 foot test holes.)

2. For a proposed public or multiple family sewage treatment system:

a. Estimate the average number of gallons of sewage generated per day by the development when fully developed.
b. Where an existing system is to be used:
   1) identify the system and the person, firm or agency responsible for its operation and maintenance.
   2) indicate the system's capacity to handle additional use and its distance from the development.
   3) provide evidence that permission to connect has been granted.
   4) provide two copies of the following attachments:
      a) a map or plat showing the location, sizes and depth of any existing sewer lines and facilities which will directly serve parcels within the proposed development.
      b) engineering plans and specifications for all proposed extensions and additional lines and facilities. (In applying for DHES review plans must be in sufficient detail to indicate sizes of lines and facilities and the capacity of the system. Complete plans and specifications must be submitted for final approval by DHES.)
c. Where a new system is proposed:
   1) indicate who will install the system, who will bear the costs, when it will be completed and who will own it.
   2) provide two copies of the following as an attachment:
      a) engineering plans and specifications for the proposed system. (When applying for DHES review plans must be in sufficient detail to indicate sizes of lines and facilities and the capacity of the system. Complete plans and specifications must be submitted to DHES for final approval.)
      b) a plan for operation and maintenance of the system.

D. SOLID WASTE

1. Describe the proposed method of collecting and disposing of solid waste from the development.

2. If use of an existing collection system or disposal facility is proposed, indicate the name and location of the facility.

3. If on-site disposal of solid waste is proposed:
a. Indicate location and size of proposed site and provide engineering drawings of the landfill.
b. Explain what measures are planned to prevent contamination of surface water or ground water supplies.
c. Indicate who will install the facility, who will bear the cost, when it will be operational, and who will own, operate and maintain the system.
d. Provide as an attachment a plan which includes:
   1) an analysis of soils and hydrology indicating pollution potential.
   2) seasonal high ground water.
   3) method of operation and maintenance.

E. DRAINAGE

1. Streets and roads.

a. Describe measures for disposing of storm run-off from streets and roads within the subdivision or onto adjacent property.
b. Indicate type of road surface proposed.
c. Describe facilities for stream or drainage crossing (eg: culverts, bridges).

2. Other Problems.

a. Describe how surface run-off will be drained or channeled from parcels.
b. Indicate if storm run-off will enter state waters and describe any proposed treatment measures.
c. Describe any existing or proposed streambank or shoreline alteration, any proposed construction or modification of lake beds or stream channels. Provide information on location, extent, type, and purpose of alteration.

It is hereby agreed that if the attached plans dated _____ or any revision or amendment thereof is approved by the Department of Health and Environmental Sciences, installation of water supply and sewage disposal facilities will be made in accordance with the details thereof as shown as such approved plans. If the subdivided lands shown on such plans are sold before such installations are made, it is agreed that all purchasers of lots will be furnished with a legible reproduction of the approved plans, and they will be notified of the necessity of making installation in accordance with such approved plans.

Signature _____

Official Title _____

Date _____

(The statement must be signed by the owner of the land platted for subdivision or the responsible official of the company or corporation offering the same for sale.)

PART III INFORMATION REQUIRED FOR ENVIRONMENTAL ASSESSMENT UNDER THE SUBDIVISION AND PLATTING ACT

Information specified in this Part must be provided in addition to that required in Parts I and II of this application form, when the local subdivision regulations require that an environmental assessment be prepared for a subdivision.

A. GEOLOGY

1. Locate on a copy of the preliminary plat or on a plat overlay any known hazards affecting the development which could result in property damage or personal injury due to:

a. Falls, slides or slumps -- soil, rock, mud, snow.
b. Seismic activity.

Describe any proposed measures to prevent or reduce the danger of property damage or personal injury from any of these hazards.

B. VEGETATION

1. Locate on a copy of the preliminary plat or on a plat overlay the location of the major vegetation types such as: marsh, grassland, shrub, forest.

2. Describe measures to be taken to protect trees and vegetative cover (e.g., design and location of lots, roads, and open spaces).

C. WILDLIFE

1. What major species of fish and wildlife use the area to be affected by the proposed subdivision?

2. Locate on a copy of the preliminary plat or on a plat overlay any known important wildlife areas, such as big game winter range, waterfowl nesting areas, habitat for rare or endangered species, and wetlands.

3. Describe any proposed measures to protect wildlife habitat or to minimize degradation (e.g., keeping buildings and roads away from shorelines or setting aside marshland as undeveloped open space).

D. HISTORICAL FEATURES

1. Describe and locate on a copy of the preliminary plat or on a plat overlay any known or possible historic, archaeological or cultural sites which may be affected by the proposed subdivison.

2. Describe any plans to protect such sites or properties.

E. ROADS

1. Describe any required construction of new public or private access roads or substantial improvements to existing public or private access roads.

2. Describe the proposed closure or modification of any existing roads.

3. Explain why access was not provided by means of a road within the subdivision, if access to any of the individual lots is directly from arterial streets or roads.

4. Indicate who will pay the cost of installing and maintaining dedicated and/or private roadway.

5. Estimate how much daily traffic the development, when fully developed, will generate on existing streets and arterials.

   a. Discuss the capability of existing and proposed roads to safely accommodate this increased traffic.
   b. Describe any increased maintenance problems and cost that will be caused by this increase in volume.

6. Is year-round access by conventional automobile over legal rights-of-way available to the subdivision and to all lots and common facilities within the subdivision?

7. Identify the owners of any private property over which access to the subdivision will be provided.

F. UTILITIES

1. Indicate the utility companies involved in providing electrical power, natural gas, or telephone service. To what extent will these utilities be placed underground?

2. Has the preliminary plat been submitted to affected utilities for review?

3. Estimate the completion date of each utility installation.

G. EMERGENCY SERVICES

1. Describe the emergency services available to the residents of the proposed subdivision, including number of personnel and number of vehicles or type of facilities, and road distance to facilities for:

   a. Fire protection -- Is the proposed subdivision in an urban or rural fire district? If not, will one be formed or extended? In absence of a fire district, what fire protection procedures are planned?
   b. Police protection.
   c. Ambulance service.
   d. Medical services.

2. Can the needs of the proposed subdivision for each of the above services be met by present personnel and facilities?

a. If not, what additional expense would be necessary to make these services adequate?
b. At whose expense would the necessary improvements be made?

H. SCHOOLS

1. Describe the available public educational facilities which would serve this subdivision, and the road distance to each.

2. Estimate the number of school children that will be added by the proposed subdivision. Provide a statement from the administrator of the appropriate public school system indicating whether the increased enrollment can be accommodated by the present personnel and facilities and by the existing school bus system.

I. LAND USE

1. Describe land uses on lands adjacent to the subdivision.

2. Describe any comprehensive plan or other land use regulations covering the area proposed for subdivision or adjacent land. If located near an incorporated city or town, is annexation proposed?

3. Where public lands are adjacent to or near the proposed development, describe the present and anticipated uses of those lands, e.g., grazing, logging, recreation. Describe how the subdivision will affect access to any public lands.

4. Describe any health or safety hazards on or near the subdivision, such as: mining activity, high pressure gas lines, dilapidated structures, high voltage power lines or irrigation ditches. Any such conditions should be accurately described and their origin and location identified.

5. Describe any on-site or off-site uses creating a nuisance, such as unpleasant odor, unusual noises, dust, or smoke. Any such conditions should be accurately described and their origin and location identified.

J. PARKS AND RECREATION FACILITIES

1. Describe park and recreation facilities to be provided within the proposed subdivision and other recreational facilities which will serve the subdivision.

APPENDIX B

Preliminary Plat Form, Contents, and Supplements

1. Preliminary Plat Form

A legible preliminary plat shall be submitted at a scale sufficient to minimize the number of sheets while maintaining clarity and shall be on one or more sheets either 18 x 24 or 24 x 36 inches in size.

2. Preliminary Plat Contents

The preliminary plat submitted for approval shall show or contain on the face of the plat or on separate sheets referenced on the face of the plat the following information. A current topographic map, an aerial photograph or a location map of the largest scale available, with an outline of the subdivision clearly indicated thereon may be used to provide the information required below and in Preliminary Plat Supplements:

a. Name and location of the subdivision, scale, scale bar, north arrow, and date of preparation.

b. The approximate exterior boundaries of the tract and the approximate location of all section corners or legal subdivision corners of sections pertinent to the subdivision boundary. If available, a metes and bounds or other legal description, or copy of previously recorded certificate of surveys or subdivision plats, should be submitted.

c. All lots and blocks, designated by numbers, and the approximate dimensions and area of each lot.

d. All streets, alleys, avenues, roads and highways, and the width of the right-of-way, grades and curvature of each, existing and proposed street names, and proposed locations of intersections or other access points for any subdivision requiring access to arterial or collector highways.

e. The approximate location, boundaries, dimensions and areas of any parks, common grounds, or other grounds dedicated for public use.

f. Any existing and proposed utilities located on or adjacent to the tract including:

    1) The approximate location, size and depth of water mains, sanitary and storm sewers, and fire hydrants.
    2) The approximate location of nearest water mains and sewer lines where none are located on or adjacent to the tract.
    3) The approximate location of gas, electric and telephone lines, and street lights.

g. Ground contours shall be provided for the tract according to the following requirements:

Where average slope is	Contour intervals shall be -
Under 10%	2 feet (If all lots are over one acre in size, 5 feet intervals may be used.)
Between 10% and 15%	5 feet
15% or greater	10 feet

h. The approximate location of existing buildings, structures and improvements.

i. The approximate location and identity of all existing easements and rights-of-way of record and proposed public and private easements and rights-of-way, including descriptions of their width and purpose.

3. Preliminary Plat Supplements

The following shall be supplied with and considered a part of the preliminary plat:

a. A vicinity sketch or sketches showing conditions on adjacent land including:

1) The names of platted subdivisions and numbers of certificates of survey previously recorded.
2) The ownership of lands adjacent to the exterior boundaries of the subdivision and to any access road leading from a present public right-of-way to the boundary of the proposed subdivision.
3) Location of any buildings, railroads, power lines, towers, roads, and other land uses.
4) Any existing or proposed zoning.
5) Lands separated from the exterior boundary of the subdivision by public or private rights-of-way are deemed to be adjacent for the purpose of this requirement.

b. Lists of the names and addresses of owners of record of adjacent property depicted on the sketch.

c. When a tract of land is to be subdivided in phases, the subdivider must provide an overall development plan indicating intent for the development of the remainder of the tract.

d. Drafts of any covenants and restrictions to be included in deeds or contracts for sale.

e. If common property is to be deeded to a property owners' association, the subdivider shall submit a draft of the covenants and restrictions which will govern the association. These covenants and restrictions shall be in accordance with the requirements contained in Section II.C.5., Guarantee of Public Improvements.

f. A complete grading and drainage plan with accurate dimensions, courses and elevations, showing the proposed grades of streets and drainage improvements.

g. Drafts of guarantee of public improvements.

h. An environmental assessment shall accompany the preliminary plat unless the subdivider has been exempted under the provisions of Section II.B.5. Appendix A provides the format of the assessment and questions to be addressed by the subdivider.

i. Status of mineral and water rights on the property.

APPENDIX C

Standards for Flood Hazard Evaluations

Where a subdivider is required by the governing body to provide data for use in defining the 100 year floodway of a stream subject to flooding, the following information shall be submitted to the Floodplain Management Section of the Water Resources Division, Montana Department of Natural Resources and Conservation.

1. A copy of the plat showing contour intervals of no greater than five feet.

2. The location and elevation of a temporary benchmark established with the subdivision and referenced to mean sea level with appropriate elevation adjustment.

3. A minimum of four surveyed valley cross sections of the stream according to the following requirements:

   a. Cross sections shall include the stream channel and floodplain on both banks and shall be normal to direction of flow.
   b. At least one cross section shall be taken at a point on the stream from which it could be extended through the subdivision.
   c. Three cross sections shall be taken downstream from the subdivision, no more than 1,000 feet apart, but in no case may vertical drop between cross sections exceed 5.0 feet. The cross section farthest downstream should be located at a natural constriction or bridge crossing if possible. Cross sections shall be taken at any location between the subdivision and lowest cross section.
   d. Distances between cross sections are to be determined by stadia, and these distances and locations of cross sections shall be shown on the location map.
   e. The overbank cross sections are to be extended to obtain a vertical rise of 15 feet above the water surface.

4. If a U.S. Geological Survey gauging station is within the reach of the stream under study, the elevation of any convenient foot mark shall be surveyed and clearly indicated on the location map.

5. Descriptions and sketches of all bridges within the reach, showing unobstructed waterway opening and elevations.

6. Color photographs clearly depicting the vegetation of both overbanks and the material composition of the banks and channel bottom shall be submitted for each cross section.

7. Cross sections plotted on cross section paper of ten divisions to the inch using any convenient, identified scale for vertical and horizontal distance. The water surface at the time of survey shall be plotted on each cross section.

8. A profile sheet prepared on cross section paper at ten divisions to the inch, showing the observed water surface profile, location of cross sections, subdivision boundaries, riverbank profile, and thalweg (lowest

point of the channel bottom).

a. A location map, such as U.S. Geological Survey seven and one-half (7½) minute quad or similar map, showing the proposed subdivision, the locations or the valley cross sections, and any gauging stations.

9. These requirements may vary, so the Supervisor of the Floodplain Management Section of the Water Resources Division of the Montana Department of Natural Resources and Conservation should be contacted.

APPENDIX D

Sample Forms and Certificates

1. Final Plat Approval Application Form
2. Certificate of Completion of Public Improvements
3. Improvements Agreement
4. Irrevocable Letter of Credit
5. Waiver of Right to Protest Creation of a Special Improvement District
6. Certificate of Surveyor -- Final Plat
7. Certificate of Dedication -- Final Plat
8. Certificate of Consent to Dedication by Encumbrancers
9. Certificate of Waiver of Park Land Dedication and Acceptance of Cash in Lieu Thereof
10. Certificate Stating Facts Authorizing the Governing Body to Waive Park Dedication Under the Five Acre, Single Family Dwelling Exemption
11. Covenant for Use With the Five Acre, Single Family Dwelling Exemption
12. Certificate of Examining Land Surveyor Where Required -- Final Plat
13. Certificate of County Treasurer
14. Certificate of Final Plat Approval -- County
15. Certificate of Final Plat Approval -- City
16. Certificate of Filing by Clerk and Recorder

1. Final Plat Approval Application Form _____ Date

1. Name of Subdivision _____

2. Location: ____¼ Section _____ Township _____ Range _____
   For Amended Plats: Lot(s) _____ Block(s) _____
   _____ Subdivision

3. Name, address and telephone number of subdivider:
   _____
   _____

4. Name, address and telephone number of persons of firms providing services and information (e.g. surveyor, engineer, designer, planning consultant, attorney) _____
   _____
   _____

5. Descriptive Data:

   a. Gross area in acres _____
   b. Number of lots or rental spaces _____
   c. Existing zoning or other regulations _____

6. Date Preliminary Plat Approved: _____

7. Any Conditions? _____ (If Yes, attach list of conditions.)

8. Any Deed Restrictions or Covenants? _____ (If Yes, attach copy)

9. All improvements installed? _____ (If No, attach a subdivision improvements agreement or guarantees.)

10. List of materials submitted with this application:

    a. _____ d. _____
    b. _____ e. _____
    c. _____ f. _____

I do hereby depose and say that all the statements and information and the statements and information contained in all exhibits transmitted herewith are true. I hereby apply to the (governing body) of (city or county) for approval of the final plat of (Name of Subdivision).

_____
Subdivider

FOR OFFICIAL USE ONLY

1. Application Number _____
2. Date Application Submitted _____
3. Date by which Final Plat must be approved or rejected _____

2. Certificate of Completion of Public Improvements/Subdivision Improvement Agreement (To be submitted with application for approval of final subdivision plat)

CERTIFICATE OF COMPLETION

I, (Name of Subdivider), and I, (Name of Subdivider's Registered Engineer), a registered professional engineer licensed to practice in the State of Montana, hereby certify that the following public improvements, required as a condition of approval of (Name of Subdivision), have been installed in conformance with the attached engineering specifications and plans: (List the improvements actually installed.)

_____ _____

Signature of Subdivider Date

_____ _____

Signature of Professional Engineer Date

Registration No. _____

_____

Address (Engineers Seal)

3. Improvements Agreement

This Agreement, made and entered into this _____ day of _____ 19___, by and between (Name of Subdivider), hereinafter called the Subdivider, and the City (County) of _____, State of Montana:

WHEREAS, subdivisions are subject to the provisions of Title 76, Chapter 3, Parts 1 through 6, MCA, said provisions being known as the "Montana Subdivision and Platting Act," hereinafter referred to as the Act; and,

WHEREAS, the Act requires that Governing Bodies adopt and provide for the enforcement of subdivision regulations; and,

WHEREAS, the Governing Body of _____, being the (City Council, County Commission) has adopted a body of ordinances entitled "_____ Subdivision Regulations" hereinafter referred to as the Regulations; and,

WHEREAS, the regulations provide that:

a. One of the conditions which must precede approval of the final plat of a subdivision by the Governing Body is an approved guarantee of completion of public improvements which are described and provided for in the subdivision plat.

b. The Regulations authorize various alternative methods of effecting the necessary and prerequisite guarantees and one such method is a written agreement between the Subdivider and the Governing Body; and,

WHEREAS, it is the intent and purpose of both Subdivider and the Governing Body to hereby enter into an agreement which will guarantee the full and satisfactory completion of all public improvements within the subdivision hereinafter described and by this agreement to satisfy the public improvement guarantee conditions for final plat approval.

THEREFORE, it is convenanted and agreed as follows:

This agreement pertains to and includes that proposed subdivision which is designated and identified as the _____ Subdivision.

This agreement specifically includes, but is not limited to, streets, storm drainage, curbing, sanitary sewer and water improvements, utilities and planter strip improvements within the proposed subdivision.

Required improvements include: sanitary sewer, water, utilities, storm drainage, streets (to include paving), and planter strip improvements. All improvements shall be constructed to (Name of Governing Body) standards at the time of construction and shall be completed per the following time schedule:

a. Required sanitary sewer service and water service lines to be constructed within one year of this agreement's execution by both parties.

b. Landscaping to include those trees and shrubs delineated on the approved final site plan on file with the Governing Body and, further, to include the planting of grass in all areas of the site not covered by building, parking areas, ingress/egress points and walkways shall be installed.

c. Paving of all parking areas, and ingress/egress areas thereto.

d. Fencing to include that which is delineated on the approved final site plan on file with the Governing Body.

e. The Subdivider hereby provides a warranty against defects in these improvements for a period of one year from the date of their written acceptance by the Governing Body.

f. The method of guarantee to insure the street, repair, sanitary sewer and water line improvements are completed shall be the deposit of a Certificate of Deposit with and in an amount satisfactory to the Governing Body. The Certificate of Deposit shall be deposited with the Governing Body prior to final plat approval.

As a guarantee of performance to install landscaping, driveway paving and fencing in compliance with the terms of this agreement, the Subdivider hereby and concurrently with the subscription and execution of this agreement, provides the Governing Body with a letter of credit in the amount of $_____. The Subdivider does hereby confirm that said letter of credit is from a bank or other reputable institution or individual. This letter shall be deposited with the governing body and certify to the following:

a. That the creditor guarantees funds in an amount equal to the cost, as estimated by the Subdividers, and approved by the governing body, of completing the required improvements.

b. That if the Subdividers fail to complete the specified improvements within the required time period, the creditor will pay to the Governing Body immediately, and without further action, such funds as are necessary to finance the completion of those improvements, up to the limit of credit given in the letter.

c. That this letter of credit may not be withdrawn, or reduced in any amount, until released by the Governing Body.

Performance by the Subdivider of the covenants set out in this agreement and in conformance with the time schedule set forth in this agreement is the essence of this agreement; accordingly, the Subdivider expressly understands and agrees that failure to meet the time schedule to the specifications described herein shall be deemed to be a breach to this agreement. The Subdivider hereby waives any notice of breach.

Upon any breach of this agreement as herein defined, the Subdivider shall be subject to the penalties and enforcement outlined in the Regulations.

In consideration of the covenants and acts of the Subdivider, the Governing Body does hereby agree that the public improvement guarantee provision has been

satisfied for the_____ Subdivision, which is the subject of this agreement, provided that nothing herein shall be construed to be final plat approval or assurance of final plat approval.

This agreement shall inure to the benefit of and be binding upon any successors in interest, heirs, or assignees.

IN WITNESS WHEREOF, the parties to this agreement have executed the same on the day and year first above written:

_____
SUBDIVIDER

STATE OF MONTANA)
: ss.
County of _____)

On this _____ day of _____, 19___, before me, a Notary Public for the State of Montana, personally appeared (Subdivider's name), known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same.

_____
Notary Public for the State of Montana
Residing at _____, Montana
(SEAL) My commission expires _____

This agreement is hereby approved and accepted by the (governing body) of (city or county), this ____day of _____, 19____.

_____
MAYOR (Chairperson, Board of County Commissioners

Attest:

_____
CITY CLERK (County Clerk and Recorder)

(SEAL)

4. Irrevocable Letter of Credit

Letter of Credit No. _____
Dated: _____
Expiration Date: _____
Amount: _____

(Name and Address of Governing Body)

We hereby establish in your favor an irrevocable letter of credit up to the aggregate amount of $_____ at the request of (Name of Subdivider).

If (Name of Subdivider) fails to complete the specified improvements in the (Name of Subdivision) within the time period set forth in the attached Improvements Agreement, we will pay on demand your draft or drafts for such funds, to the limit of credit set forth herein, as are required to complete said improvements. All drafts must indicate the number and date of this letter of credit and be accompanied by a signed statement of an authorized official that the amount is drawn to install improvements not installed in conformance with the Improvements Agreement and specifying the default or defect in question.

All drafts must be presented prior to the expiration date stated above, and this letter of credit must accompany the final draft for payment.

This letter may not be withdrawn or reduced in any amount prior to its expiration date except by your draft or written release.

(Name of Lending Institution)

(Signature and Title of Authorized Official

5. Waiver of Right to Protest Creation of Special Improvement District When Improvements are to be Financed by Such a District

FOR A VALUABLE CONSIDERATION, the undersigned, owner of the hereinafter described property, does hereby waive the right to protest the formation of one or more special improvement district or districts, for the construction of a (length) foot street, curb, and gutter on what is identified as (name of street) on the plat of the _____ Subdivision and other improvements which the undersigned has agreed to furnish pursuant to a subdivision improvements agreement between (Name of Subdivider) and (governing body), dated _____.

This waiver and agreement shall run with the land and shall be binding upon the undersigned and any heirs and assigns, and the same shall be recorded in the office of the County Clerk and Recorder of _____ County, Montana.

The property hereinabove mentioned is described as (Name of Subdivision) according to the official plat thereof on file and of record in the office of the Clerk and Recorder of _____ County, Montana.

Dated this _____ day of _____, 19____.

_____
(Name of Subdivider)

STATE OF MONTANA)
: ss.
County of _____)

On this _____ day of _____, 19____, before me, a Notary Public for the State of Montana, personally appeared (Subdivider), known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same.

_____
Notary Public for the State of Montana
Residing at _____, Montana
My commission expires _____

(SEAL)

6. Certificate of Surveyor -- Final Plat

State of Montana)
) ss.
County of _____)

I, (Name of Surveyor), a registered Land Surveyor do hereby certify that I have performed the survey shown on the attached plat of (Name of Subdivision); that such survey was made on (Date of Survey); that said survey is true and complete as shown and that the monuments found and set are of the character and occupy the positions shown thereon.

Dated this _____ day of _____, 19____.

(Seal)

(Signature of Surveyor)
Registration No. _____
(Address)

7. Certificate of Dedication -- Final Plat

(I) (We), the undersigned property owner(s), do hereby certify that (I) (We) have caused to be surveyed, subdivided and platted into lots, blocks, streets and alleys, as shown by the plat hereto annexed, the following described land in (City and County if in Unincorporated Area), to-wit:

(Exterior boundary description of area contained in plat and total acreage)

The above described tract of land is to be known and designated as (Name of Subdivision), and the lands included in all streets, avenues, alleys, and parks or public squares shown on said plat are hereby granted and donated to the use of the public forever.

Dated this _____ day of _____, 19____.

(Acknowledged and notarized signatures of all record owners of platted property)

8. Consent to Dedication by Encumbrancers, If Any

(I) (We), the undersigned encumbrancer(s), do hereby join in and consent to the annexed plat and release (my) (our) respective liens, claims and encumbrances as to any portion of said lands shown on such plat as being dedicated to the use of the public forever.

Dated this _____ day of _____, 19___.

(Acknowledged and notarized signatures of all encumbrancers of record)

9. Certificate of Waiver of Park Land Dedication and Acceptance of Cash in Lieu Thereof

I, (Name of City or Town Clerk), (County Clerk and Recorder) of (Name of City or County), Montana, do certify that the following order was made by the (Governing Body) of (Name of City or County) at a meeting thereof held on the _____ day of _____, 19___, and entered into the proceedings of said Body to-wit: "Inasmuch as the dedication of park land within the platted area of (Name of Subdivision) is undesirable for the reasons set forth in the minutes of this meeting, it is hereby ordered by the (Name of Governing Body) that land dedication for park purposes be waived and that cash in lieu of park land, in the amount of _____ dollars ($), be accepted in accordance with the provisions of Title 76, Chapter 3, MCA."

In witness whereof, I have hereunto affixed the seal of (Name of City or County), Montana this _____ day of _____, 19_____.

(Seal) (Signature of Clerk)

10. Certificate Stating Facts Authorizing the Governing Body to Waive Park Dedication Under the Five Acre, Single Family Dwelling Exemption of the Montana Subdivision and Platting Act.

(Name of Subdivider), referred to herein as the subdivider, hereby certifies that all of the parcels with (Name of Subdivision) contain five acres or more and that the Subdivider will enter into a covenant to run with the land and revocable only by mutual consent of the owners of the parcels in question and the governing body of (Name of City or County), that the parcels in the subdivision will never be subdivided into parcles of less than five acres and that only single family dwellings and associated outbuildings will be constructed on any single lot or parcel within the boundaries of the subdivision and only one single lot or parcel within the subdivision. A copy of this covenant is attached hereto:

(Date) (Notarized Signature of Subdivider)

11. Declaration of Covenant (To be shown on or filed with final plat where the five care, single family dwelling exemption applies.)

THIS DECLARATION made on the date hereafter set forth, by (Name of Subdivider).

W I T N E S S E T H

THAT WHEREAS, Declarant is the owner of certain property known as (Name of Subdivision) in (City and County), State of Montana, which is more particuarly described in attached Exhibit A.

NOW, THEREFORE, (Name of Subdivider) hereby declares that all of the properties described above shall be held, sold, and conveyed subject to the following covenant which shall run with the real property and be binding on all parties having any right, title, or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall bind each owner thereof. The covenant may be revoked for any or all parcels within the subdivision by mutual consent of the owners of the parcels in question and the governing body of (City or County).

TO WIT:

No parcels within (Name of Subdivision) may be resubdivided into parcels containing less than five acres and only single family dwellings and their associated out-buildings may be constructed within the boundaries of the subdivision, and only one such dwelling may be constructed on any present or future parcel or lot within the constructed subdivision. For the purpose of this restriction "single family dwelling" shall mean a building under one roof designed and intended for use and occupancy as a residence by a single family.

The governing body of (Name of City or County) is deemed to be a party to and may enforce this covenant.

IN WITNESS WHEREOF, the undersigned have hereunto set their hands this (date) day of (month), (year).

(Signature of Subdivider)
Acknowledgement and notarization of Signature

12. Certificate of Examining Land Surveyor Where Required -- Final Plat

I, (Name of Examining Land Surveyor), acting as an Examining Land Surveyor for (City or County), Montana, do hereby certify that I have examined the final plat of (Name of Subdivision) and find that the survey data shown thereon meet the conditions set forth by or pursuant to Title 76, Chapter 3, Part 4, MCA.

Dated this _____ day of _____, 19___.

(Signature)
(Name of Surveyor)
Registration No. _____
(City or County)

(Seal of Examining Land Surveyor)

13. Certificate of County Treasurer

I hereby certify, pursuant to Section 76-3-611(1)(b), MCA, that no real property taxes assessed and levied on the land described below and encompassed by the proposed (Name of Subdivision) are delinquent:

(legal description of land)

Dated this _____ day of _____, 19____.

(Signature of County Treasurer)
Treasurer, _____ County
Montana

(seal)

14. Certificate of Final Plat Approval - County

The County Commission of _____ County, Montana does hereby certify that it has examined this subdivision plat and having found the same to conform to law, approves it, and hereby accepts the dedication to public use of any and all lands shown on this plat as being dedicated to such use, this the _____ day of _____, 19_____.

(Signatures of Commissioners)

ATTEST: (Signature of Name of Clerk and Recorder
_____, Montana

(Seal of County)

15. Certificate of Final Plat Approval -- City

The (Commission) (Council) of the City (Town) of (Name of City or Town), Montana, does hereby certify that it has examined this subdivision plat and, having found the same to conform to law, approves it, and hereby accepts the dedication to public use of any and all lands shown on this plat as being dedicated to such use, this _____ day of _____, 19____.

by (Signature of City or Town Clerk)
Clerk

(Signature of Mayor)
Mayor

16. Certificate of Filing by Clerk and Recorder

STATE OF MONTANA)
) ss.
County of _____)

Filed for record this _____ day of _____, 19____, at _____ o'clock.

(Signature of Clerk and Recorder)
County Clerk and Recorder
_____, Montana

APPENDIX E

Subdivision Improvements Guarantee Procedures

The governing body may at its discretion allow a subdivider to defer completion of required improvements. The following procedures and requirements shall apply:

A. Improvements: Standards: Time Limits

The governing body shall specify the improvements that may be completed after the final plat is approved. The governing body shall specify that the improvements must be constructed to standards included in these regulations and other standards the governing body may adopt. Those improvements shall include streets, roads, bridges, culverts, curbs, gutters, drainage ditches, water systems, sewage systems, sidewalks, walkways, street lights, street signs, road right-of-way clearings, solid waste facilities, park and recreational facilities, mobile home pads and other improvements as required by the governing body.

The governing body shall specify a deadline for completion of the improvements. All improvements shall be completed no later than 18 months from the date the final plat is filed with the clerk and recorder. The governing body may grant one extension of up to one year.

B. Projected Costs

The governing body shall direct a registered professional engineer to review all improvements, plans and specifications and to project the costs of completing the improvements. The costs for the time of the engineer or representative shall be borne by the subdivider.

C. Improvements Agreement

The subdivider shall enter into an improvements agreement which shall include:

1. A commitment to complete the improvements within the specified time;

2. The projected costs of the improvements as approved by the governing body;

3. A guarantee acceptable to the governing body and in a value equal to the approved projected costs of the improvements; and,

4. A warranty against defects in the improvements for a period of one year from the date of completion and governing body's acceptance.

D. Improvements Guarantee

The subdivider shall provide a guarantee that the improvements will be completed. The guarantee shall have a value equal to the projected costs of completing the improvements. The guarantee shall specify procedures for the governing body to obtain the funds should the subdivider fail to

satisfactorily complete the improvements. The types of guarantees acceptable to the governing body are described in Section H below. The method of guarantee shall be subject to governing body approval.

E. Inspection and Certification

1. Upon completion of required improvements, the subdivider shall file with the governing body a statement certifying that:

   a. All required improvements are complete.

   b. These improvements are in compliance with the minimum standards specified by the governing body for their construction.

   c. The subdivider knows of no defects in these improvements.

   d. These improvements are free and clear of any encumbrance or liens.

   e. A schedule of actual construction costs has been filed with the governing body.

   f. All applicable fees and surcharges have been paid.

2. The subdivider shall also file with the governing body copies of final plans, profiles, grades and specifications for improvements.

3. The governing body will provide for inspection of all required improvements by a registered professional engineer before final plat approval when installation is a condition of approval or before releasing the subdivider from the subdivision improvements agreement. The cost of the inspection shall be borne by the subdivider.

   Upon completion of the inspection, the inspecting engineer shall file with the governing body a statement either certifying that the improvements have been completed in the required manner or listing the defect in those improvements.

F. Reduction and Release of Guarantee

1. Only after the inspecting engineer certifies that the improvements are complete and free from defect, and after receipt of the other statements detailed above, the governing body shall release the subdivider from the subdivision improvements agreement.

2. The governing body may, upon application by the subdivider, release a portion of the collateral corresponding to the value of the installed improvements.

G. Failure to Satisfactorily Complete Improvements

If the governing body determines that any improvements are not constructed in compliance with the specifications, it shall furnish the subdivider with a list of specific deficiences and may withhold collateral sufficient to

ensure proper completion. If the governing body determines that the subdivider will not construct any or all of the improvements to required specifications, or within time limits, it may withdraw collateral and use these funds to construct the improvements to meet specifications. Unused portions of these funds shall be returned to the subdivider or crediting institution.

H. Acceptable Forms of Improvements Guarantees

The subdivider shall provide one or more of the following financial security guarantees in the amount of 100 percent of the estimated total cost of installing all required improvements.

1. Escrow Account

The subdivider shall deposit cash, or collateral readily convertible to cash at face value, either with the governing body or in escrow with a bank. The use of collateral other than cash, and the selection of the bank where funds are to be deposited must be approved by the governing body.

Where an escrow account is to be used, the subdivider shall give the governing body an agreement with the bank guaranteeing the following:

a. That the funds in the escrow account are to be held in trust until released by the governing body and may not be used or pledged by the subdivider as security for any obligation during that period.

b. That, should the subdivider fail to complete the required improvements, the bank shall immediately make the funds in escrow available to the governing body for completing these improvements.

2. Letter of Credit

Subject to governing body approval, the subdivider shall provide the governing body a letter of credit from a bank or other reputable institution or individual certifying the following:

a. That the creditor guarantees funds in an amount equal to that cost, as approved by the governing body, of completing all required improvements.

b. That if the subdivider fails to complete the specified improvements within the required period, the creditor will immediately pay to the governing body upon presentation of a sight draft without further action, an amount of cash necessary to finance the completion of those improvements, up to the limit of credit stated in the letter.

c. That this letter of credit may not be withdrawn, or reduced in amount, until released by the governing body.

3. Property Escrow

The subdivider may offer as a guarantee land or other property, including corporate stocks or bonds. The value of any real property to be used accounting for the possibility of a decline in its value during the guarantee period shall be established by a licensed real estate appraiser at the subdivider's expense. The governing body may reject the use of property as collateral when the property value is unstable, when the property may be difficult to sell, or when other factors exist which will inhibit the exchange of the property for an amount of money sufficient to complete required improvements.

When property is offered as an improvement guarantee, the subdivider shall:

a. Make an agreement with the escrow agent instructing the agent to release the property to the governing body in the case of default. The agreement shall be placed on file with the county clerk and recorder.

b. File with the governing body an affidavit affirming that the property to be used as a guarantee is free and clear of any encumbrances or liens at the time it is to be put in escrow.

c. Execute and file with the governing body an agreement stating that the property to be placed in escrow as an improvement guarantee will not be used for any other purpose, or pledged as a security for any other matter until it is released by the governing body.

4. Sequential Development

Where a subdivision is to be developed in phased portions, the governing body may, at its discretion, waive the use of a guarantee on the initial portion, provided that the portion contains no more than 25 lots, or 50 percent of the total number of lots in the proposed subdivision, whichever is less. The governing body may grant final plat approval to only one portion at a time. The plat approval for each succeeding portion will be contingent upon completion of all improvements in each preceding portion, and acceptance of those improvements by the governing body. Completion of improvements in the final portion of the subdivision must be guaranteed through the use of one of the other methods detailed in this section.

5. Special Improvements District

The governing body may enter into an agreement with the subdivider, and the owners of the property proposed for subdivision if other than the subdivider, that the installation of required improvements will be financed through a special or rural improvement district created pursuant to Title 7, Chapter 12, MCA. This agreement must

provide that no lots within the subdivision will be sold, rented, or leased, and no contract for the sale of lots executed, before the improvement district has been created.

If the proposed subdivision lies in an unincorporated area, the subdivider, or other owners of the property involved must also petition the board of county commissioners to create a rural improvement district pursuant to Section 7-12-2102, MCA.

An agreement to finance improvements through creating a special improvement district, or a petition to create a rural improvement district, constitutes a waiver by the subdivider or the other owners of the property of the right to protest, or petition against, the creation of the district under either Section 7-12-2109 or Section 7-12-4110, MCA. This waiver must be filed with the county clerk and recorder and will be deemed to run with the land.

6. Surety Performance Bond

The bond shall be executed by a surety company authorized to do business in the State of Montana and acceptable as a surety to the governing body and countersigned by a Montana agent. The bond shall be payable to the County (City) of _____. The bond shall be in effect until the completed improvements are accepted by the governing body.

APPENDIX F

Uniform Standards for Final Subdivision Plats

A.R.M. 8.94.3003

1. A final subdivision plat may not be approved by the governing body nor filed by the county clerk and recorder unless it complies with the following requirements:

a. Final subdivision plats shall be legibly drawn with permanent ink or printed or reproduced by a process guaranteeing a permanent record and shall be 24 inches by 36 inches overall to include a 1½ inch margin on the binding side.

b. One signed cloth-backed or opaque mylar copy and one signed reproducible copy on a stable based polyester film or equivalent shall be submitted.

c. Whenever more than one sheet must be used to accurately portray the land subdivided, each sheet must show the number of that sheet and the total number of sheets included. All certifications shall be shown or referenced on one sheet.

d. Changes to a filed subdivision plat must be filed with the county clerk and recorder as an amended plat. An amended plat may not be filed unless it meets the filing requirements for a final subdivision plat specified in these rules, except that approval by the local governing body is not required where waived by Section 76-3-207 (1)(e), MCA, for relocation of common boundary lines or aggregation of five or fewer lots.

2. The final plat submitted for approval shall show or contain, on its face or on separate sheets referenced on the plat:

a. A title block indicating the quarter-section(s), section, township, range, principal meridan, and county of the subdivision. The title of the plat shall contain the words"plat" and "subdivision."

b. Name(s) on the owner(s) of the land surveyed and the names of any adjoining platted subdivisions and numbers of any adjoining certificates of survey previously recorded and ties thereto.

c. North point.

d. Scale bar (scale shall be sufficient to legibly represent the required data on the plat submitted for filing).

e. All monuments found, set, reset, replaced or removed describing their kind, size, location and giving other data relating thereto.

f. Witness monuments, basis for bearing, bearings and lengths of lines.

g. The bearings, distances and curve data of all perimeter boundary lines shall be indicated. When the subdivision is bounded by an irregular shoreline or body of water, the bearings and distances of a meander traverse shall be given.

h. Data on all curves sufficient to enable the reestablishment of the curves on the ground. These data shall include:

(i) Radius of curve.
(ii) Arch length.
(iii) Notation of non-tangent curves.

i. Lengths of all lines shall be shown to at least tenths of a foot, and all angles and bearings shown to at least the nearest minute.

j. The location of all section corners or legal subdivision corners of sections pertinent to the subdivision boundary.

k. All lots and blocks in the subdivision, designated by number, the dimensions of each lot and block, the area of each lot, and the total acreage of all lots. (Excepted parcels shall be marked "Not included in this subdivision" or "Not included in this plat;" as appropriate, and the boundary completely indicated by bearings and distances.)

l. All streets, alleys, avenues, roads and highways; their widths, bearings; the width and purpose of all rights-of-way; and the names of all streets, roads and highways.

m. The location, dimensions and areas of all parks, common areas, and all other grounds dedicated for public use.

n. Acreage of the subdivision, gross and net.

o. A legal description of the perimeter boundary of the tract surveyed.

p. All monuments to be of record must be adequately described and clearly identified on the plat. Where additional monuments are to be set subsequent to the filing of the plat, the location of such additional monuments shall be shown by a distinct symbol noted on the plat. All monuments or other evidence found during retracements that would influence the positions of any corner or boundary indicated on the plat must be clearly shown.

q. The signature and seal of the registered land surveyor responsible for the survey. The affixing of the seal constitutes a certification by the surveyor that the final plat has been prepared in conformance with the Montana Subdivision and Platting Act (Sections 76-3-101 through 76-3-614, MCA) and the regulations adopted pursuant thereto.

r. Memorandum of oaths administered pursuant to Section 76-3-405, MCA.

s. Certification by the governing body that the final subdivision plat is approved, except where the plat shows changes to a filed sub-

division plat which are exempt from local government review under Section 76-3-207(1)(e), MCA. Where an amended plat qualifies for such a waiver the plat must contain a statement that pursuant to Section 76-3-207(1)(e), MCA, approval by the local governing body is not required for relocation of common boundary lines or aggregation of lots.

3. The following documents shall accompany the approved final plat when filed with the county clerk and recorder:

a. Certification of dedication of streets, parks or playgrounds, or other public improvements, or of cash donation in lieu of dedication, when applicable.

b. Certification by a licensed title abstractor showing the names of the owners of record of land to be subdivided and the names of any lien holders or claimants of record against the land and the written consent to the subdivision by the owners of the land, if other than the subdivider, and any lien holders or claimants of record against the land.

c. Copies of any covenants or deed restrictions relating to public improvements.

d. Certification by the Montana Department of Health and Environmental Sciences that it has approved the plans and specifications for sanitary facilities.

e. Copies of articles of incorporation and by-laws for any property owners' association.

f. Certification by the subdivider indicating which required public improvements have been installed and a copy of any subdivision improvements agreement securing the future construction of any additional public improvements to be installed.

g. Copies of final plans, profiles, grades and specifications for improvements, including a complete grading and drainage plan, with the certification of a registered professional engineer that all required improvements which have been installed are in conformance with the attached plans.

h. Certification by the governing body expressly accepting any dedicated land and improvements. Acceptance of dedication shall be ineffective without such certification.

i. Certification of examining land surveyor where applicable.

j. Copy of the state highway permit when a new street or road access will intersect with a state highway.

APPENDIX G

Definitions

Whenever the following words or phrases appear in this text, they shall have the meaning assigned to them by this section. When not inconsistent with the context, words used in the present tense shall include the future; the singular shall include the plural, and the plural the singular; the word "shall" is always mandatory, and the word "may" indicates use of discretion in making decisions.

1. BLOCK: A group of lots, tracts or parcels within well-defined and fixed boundaries.

2. CERTIFICATE OF SURVEY: A drawing of a field survey prepared by a registered land surveyor for the purpose of disclosing facts pertaining to boundary locations.

3. COMPREHENSIVE PLAN OR MASTER PLAN: Defined in Section 76-1-103, MCA, as a comprehensive development plan or any of its parts such as a plan of land use and zoning, of thoroughfares, of sanitation, of recreation, and of other related matters.

4. CONDOMINIUM: A form of individual ownership with unrestricted right of disposal of one or more units in a multiple unit project with the land an all other parts of the project held in common ownership or use with owners of the other units.

5. COVENANT: An agreement, in writing, of two or more parties by which any of the parties pledges to the others that something is done or shall be done.

6. DEDICATION: The deliberate appropriation of land by an owner for any general and public use, reserving no rights which are incompatible with the full exercise and enjoyment of the public use to which the property has been devoted.

7. DIVISION OF LAND: The segregation of one or more parcels of land from a larger tract held in single or undivided ownership by transferring, or contracting to trasfer, title to or possession of a portion of the tract or properly filing a certificate of survey or subdivision plat establishing the identity of the segregated parcels pursuant to the Montana Subdivision and Platting Act. Provided that where required by the Act the land upon which an improvement is situated has been subdivided in compliance with the Act, the sale, rent, lease or other conveyance of one or more parts of a building, structure, or other improvement situated on one or more parcels of land is not a division of land and is not subject to the terms of the Act.

8. DWELLING UNIT: Any building or portion thereof providing complete, independent and permanent living facilities for one family.

9. EASEMENT: A right to use land, other than as a tenant, for a specific purpose; such right being held by someone other than the owner.

10. ENGINEER (REGISTERED PROFESSIONAL ENGINEER); A person licensed in conformance with the Montana Professional Engineers' Registration Act (Title 37, Chapter 67, MCA) to practice engineering in the State of Montana.

11. FLOOD: The water of any watercourse or drainway which is above the bank or outside the channel and banks of such watercourse or drainway.

12. FLOOD OF 100 YEAR FREQUENCY: A flood magnitude expected to recur on the average of one every 100 years, or a flood magnitude which has a one percent chance of occurring in any given year.

13. FLOODPLAIN: The area adjoining the watercourse or drainway which would be covered by the flood water of a flood of 100 year frequency.

14. FLOODWAY: The channel of a watercourse or drainway and those portions of the floodplain adjoining the channel which are reasonably required to carry and discharge the floodwater of any watercourse or drainway.

15. GOVERNING BODY: The City Council (County Commission) of _____.

16. LOT: A parcel, plot or other land area created by subdivision for sale, rent, or lease.

17. LOT MEASUREMENTS:

    a. Lot Depth -- The length of a line drawn perpendicuarly to the front lot line and extending to the rear lot line.

    b. Lot Width -- The average width of the lot.

    c. Lot Frontage -- The width of the front lot line.

    d. Lot Area -- The area of a lot determined exclusive of street, highway, alley, road, or other rights-of-way.

18. LOT TYPES:

    a. Corner Lot: A lot lcoated at the intersection of two streets.

    b. Interior Lot: A lot with frontage on only one street.

    c. Through or Double-Frontage Lot: A lot whose front and rear lines both abut on streets.

19. MINOR SUBDIVISION: A subdivision containing five or fewer parcels where proper access to all lots is provided, where no land in the subdivision will be dedicated to public use for parks or playgrounds.

20. MOBILE HOME: A factory-assembled structure or structures equipped with the necessary service connections and made so as to be readily movable as a unit or units on its (their) own running gear and designed to be used as a dwelling unit(s) without a permanent foundation.

21. MOBILE HOME LOT: A designated portion of a mobile home park designed for the accommodation of one mobile home and its accessory buildings or structures for the exclusive use of the occupants.

22. MOBILE HOME PARK: A tract of land providing two or more mobile home lots for lease or rent to the general public.

23. MOBILE HOME STAND: That area of a mobile home lot which has been prepared for the placement of a mobile home.

24. MONTANA DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES MINIMUM STANDARDS: Minimum standards as set forth by the Division of Environmental Sciences of the Montana Department of Health and Environmental Sciences, adopted pursuant to Title 76, Chapter 4, Part I, MCA.

25. MONUMENT (PERMANENT MONUMENT): Any structure of masonry, metal, or other permanent material placed in the ground, which is exclusively identifiable as a monument to a survey point, expressly placed for surveying reference.

26. OPEN SPACE: An undeveloped land or water area devoid of buildings except where accessory to the provision of recreation.

27. OVERALL DEVELOPMENT PLAN: The plan of a subdivision design for a single tract proposed to be subdivided by stages.

28. PLANNED UNIT DEVELOPMENT (P.U.D.): A land development project consisting of residential clusters, industrial parks, shopping centers, office building parks, or any combination thereof which comprises a planned mixture of land uses built in a prearranged relationship to each other ahd having open space and community facilities in a common ownership or use.

29. PLANNING BOARD: The (City, County or City-County) Planning Board formed pursuant to Title 76, Chapter 1, MCA.

30. PLAT: A graphic representation of a subdivision showing the division of land into lots, parcels, blocks, streets, and alleys, and other divisions and dedications.

    a. Preliminary Plat: A neat and scaled drawing of a proposed subdivision showing the layout of streets, alleys, lots, blocks, and other elements of a subdivision which furnish a basis for review by a governing body.

    b. Final Plat: The final drawing of the subdivision and dedication required to be prepared for filing for record with the county clerk and recorder containing all elements and requirements set forth in these regulations and the Montana Subdivision and Platting Act. (Title 76, Chapter 3, MCA)

c. Amended Plat: The final drawing of any change to a platted subdivision filed with the county clerk and recorder required to be prepared for filing for record with the county clerk and recorder and containing all elements and requirements set forth in these regulations and the Montana Subdivision and Platting Act. (Title 76, Chapter 3, MCA).

31. PUBLIC IMPROVEMENT: Any structure or facility constructed to serve the residents of a subdivision or the general public such as parks, streets and roads, sidewalks, curbs and gutters, street lighting, utilities and systems for water supply, sewage disposal and drainage.

32. RECREATIONAL VEHICLE PARK: A place used for public camping where persons can rent space to park individual camping trailers, pick-up campers, motorhomes, travel trailers or automobiles for transient dwelling purposes.

33. RECREATIONAL VEHICLE SPACE: A designated portion of a recreational vehicle park designed for the placement of a single recreational vehicle and the exclusive use of its occupants.

34. RIGHT-OF-WAY: A strip of land dedicated or acquired for use as a public way.

35. STATE: State of Montana.

36. STREET TYPES: For purposes of these regulations, street types are defined as follows:

a. Alley: A street used primarily for vehicular access to the rear of properties which abut on and are served by public roads.

b. Arterial: A street or road having the primary function of moving traffic with emphasis on a high level of mobility for through movement and the secondary function of providing access to adjacent land. Arterials generally carry relatively large volumes of traffic. Arterials have two to four lanes of moving traffic and should provide only limited access to abutting property.

c. Collector: A street or road having the equally important functions of moving traffic and providing access to adjacent land. Collector streets have two moving traffic lanes and up to two parking lanes.

d. Local Streets: A street or road having the primary function of serving abutting properites, and the secondary function of moving traffic. Local streets have two moving lanes of traffic, up to two parking lanes, and provide access to abutting properties.

f. Half-Street: A portion of the width of a street, usually along the outside perimeter of a subdivision, where the remaining portion of the street must be located on adjacent property.

g. Cul-de-sac: A street having only one outlet for vehicular traffic and terminating in a turn-around area.

h. Loop: A local street which begins and ends on the same street, generally used for access to properties.

i. Frontage Access (Service Road): A local or collector street, usually parallel and adjacent to an arterial or major collector, which provides access to abutting properties and controls traffic access to arterials or collectors.

37. SUBDIVIDER: Any person, firm or corporation, or other entity who causes land to be subdivided or who proposes a subdivision of land.

38. SUBDIVISION: A division of land or land so divided which creates one or more parcels containing less than 20 acres, exclusive of public roadways, in order that the title to or possession of the parcels may be sold, rented, leased, or otherwise conveyed, and shall include any resubdivision; and shall further include any condominium or area, regardless of its size, which provides or will provide multiple space for recreational camping vehicles, or mobile homes. A subdivision shall comprise only those parcels less than 20 acres which have been segregated from the original tract, and the plat thereof shall show all such parcels whether contiguous or not. Provided, however, condominiums constructed on land divided in compliance with the Montana Subdivision and Platting Act are exempt from the provisions of the Act.

39. SURVEYOR (REGISTERED LAND SURVEYOR): A person licensed in conformance with the Montana Professional Engineer's Regisration Act (Title 37, Chapter 67, MCA) to practice surveying in the State of Montana.

40. SURVEYOR (EXAMINING LAND SURVEYOR): A registered land surveyor duly appointed by the governing body to review surveys and plats submitted for filing.

41. SWALE: A drainage channel or shallow depression designed to direct surface water flow.

42. TRACT: Land area proposed to be subdivided.

43. VICINITY SKETCH: A map at a scale suitable to lcoate the proposed subdivision, showing the boundary lines of all adjacent properties and streets and other information necessary to determine the general location of the proposed subdivision.